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ABSTRACT

State public employee collective bargaining laws affecting education are summarized in this booklet. State provisions and laws relative to coverage, exclusion, determination of bargaining units, union security, administrative roles, management rights, impasse procedures, grievance procedures, unfair practices, and deadline dates are compared. Provisions regarding open meeting requirements are discussed. The implementation of bargaining laws in 31 states are summarized and compared. An appendix describing impasse resolution procedures for professional educational personnel is provided, along with a glossary of terms. (JEH)

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Cuebook II

State Education Collective Bargaining Laws

Report No. F80-5

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Doris Ross is a research associate and project director in the Department of Research and Information of the Education Commission of the States. Three prior versions of this booklet have been published by ECS.

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Introduction

In 1980, many collective bargaining observers are claiming that the movement toward public employee bargaining—including bargaining by teachers and other education personnel—has cooled a bit. If one looks at the number of states that grant bargaining rights to teachers by law (32 including the District of Columbia), the claim probably has considerable validity. Since 1978, no "new" states have granted bargaining rights to education personnel.

However, bargaining *activity* continues. Public sector unions, a major portion of which are teacher organizations, continue to grow. According to the Bureau of National Affairs, 65.4 percent of the nation's public school teachers belong to employee organizations.

States without teacher bargaining laws are still being pressured by various interest groups to pass them. No state has rescinded teacher bargaining rights that have been granted by law. Contracts are still being bargained, both in states with bargaining laws and in those without them. And, significantly, states that have bargaining laws on the books are still tailoring them to the bargaining process that takes place in their states. For example, since 1978, Minnesota and Kansas have made major changes in their laws' provisions for the state-level implementation of the bargaining process.

State legislatures continue to debate the issues of impasse resolution and strikes. Connecticut has been experimenting with compulsory binding arbitration of bargaining impasse for over a year now, under amendments to its teacher bargaining law. One teacher strike has occurred during this period of time. Considerable debate in California has focused on differing interpretations of the teacher bargaining law's provisions, or lack of them, dealing with strike rights.

The purpose of this booklet is to provide the reader with an encapsulated view of state bargaining laws affecting education, along with a brief review of how states have chosen to handle the bargaining process. The review of the state-level implementation of teacher bargaining laws is a new feature of this booklet. It is based on an examination of documents solicited from state-labor relations boards and agencies and on site visits to four very different states: New York, Minnesota, Kansas and California. A more detailed report on each of the states visited is available from ECS as a separate document: *State Involvement in Education Labor Relations—A Report on Four States*, at a cost of \$5.

I. The Laws and the Chart

The Key

In the first column of the following charts, the name of the state and the statutory reference appear. Below each citation is an identification key. On the top line of the key, centered, is the type of coverage the law provides.

CB = *Collective Bargaining*: The process that requires both parties, the employer and the designated employee representative or bargaining agent, to perform mutual obligations aimed toward the attainment of a written and binding contract.

MC = *Meet and confer*: The process that requires both parties, the employer and the employee representative, to consult together on matters defined by law. Agreements are not necessarily binding and, generally, the employer has the right to make a final decision on the matters under discussion.

On the left side of the identification key is the level of education personnel covered:

K-12 = Employees serving kindergarten through grade 12.

PS = Employees serving at the college and university level.

CC = Employees serving at the community college, or two-year institutional, level. CC is used only where the law *specifically* states that community colleges are covered. K-12 and PS designations frequently encompass the community college level, depending on state structures.

On the right side of the identification key is the employment level of covered personnel. For the purposes of the chart, the following symbols and definitions are used:

P = *Professional* employee, generally, when applied to education personnel, means teachers or personnel with similar or higher status.

C = *Classified* employee, generally, means one below the rank of teacher; i.e., clerk, food employee, bus driver, custodian, paraprofessional. Not to be confused with state-level classified personnel within a state civil service system.

Particular characteristics of each law examined are noted on the last line of the identification key. The terms used are:

State Level = a law with coverage for state-level employees only.

Local Level = A law with coverage for local-level employees only.

Omnibus = A law with coverage for employees at more than one governmental level.

In addition, this column notes the date of enactment of each law, and the date of its last amendment. It is probable that not all 1980 amendments have been

incorporated into the charts, since this book was completed before the end of 1980.

Three states have laws with limited coverages that are not common to other states. California has a special law for postsecondary (university) employees only. Washington has a special law for community college personnel only. Maine has a separate law that covers both community college and university personnel. These have been noted in the chart.

Organization of the Laws

While the states that have bargaining laws on their books for K-12 and/or postsecondary teachers have a common purpose—that of granting bargaining rights to such public employees—in enacting such laws, the structure and comprehensiveness of the laws varies widely from state to state. Some are short and nonspecific in their treatment of the bargaining process and others are very long and extremely detailed. The order in which the various provisions appear is not consistent across states, either. In some laws it is even necessary to read through the entire law to pull out all the provisions for a specific area. The chart in this book has been organized with headings loosely representing the various steps in the process of collective bargaining, and arranged in essentially the same order as the steps in the bargaining process. The following discussion will explain each category in more detail than was possible to include on the chart, and includes some categories that do not appear on the chart.

Statement of Intent or Declaration of Policy

This category is not included on the chart. A majority of the state collective bargaining laws covering K-12 and/or postsecondary teachers begins with a *statement of intent or declaration of policy*. Generally this is an overarching statement that lays the groundwork for the provisions of the Act. It is in this portion of the law that the legislature indicates its concern for efficient and orderly employer-employee relations as they affect the optimal operation of government, and its recognition that government employees are entitled to a voice in the terms and conditions of their employment. Often this statement of intent is examined carefully and used as a basis for rulings on disputes arising out of the collective bargaining process by labor relations agencies, public employment relations boards and courts—as well as for attorney general opinions. Twenty-three states preface one or more of their education bargaining laws with this kind of statement.

Coverage, Exclusions

In this column the types of education personnel that are covered by each law are noted, along with those categories of education employees that are excluded. In all cases an attempt is made to indicate which education employees—at what levels—are covered by the collective bargaining rights detailed in each law.

Many of the state laws contain a section for definition of terms. It is these definitions that usually refine and detail the coverage of the law. For example, if the law is for most public employees at all levels of government, it will say that the employer for bargaining purposes is the state and/or its political subdivisions

(which includes school districts). Therefore, we infer that school district employees and postsecondary employees are covered unless additional provisions specifically exclude them. If the law is for K-12 education bargaining only, it will define the employer as the school district governing board. If the law covers postsecondary faculty, the employer may be defined as the state, a state postsecondary governing board or even specific institutional governing boards. Another way to determine coverage is to review the definition of employee, which may pinpoint those who are not to be considered employees for the purposes of the Act.

It is a rare state that does not include at least some definitions in its bargaining laws, but there is a wide variance in the number of terms defined and in the explicitness of the definitions. The number of definitions can range from less than three to a dozen or more,¹ and touch on areas where a precise understanding of terminology is essential to the implementation, administration and interpretation of the law. A careful reading of these definitions is required, not only to understand the coverage of the law, but the other sections of the law as well.

Recognition Procedures

This category is not included on the chart. Unit recognition procedures are the framework through which an employer "recognizes" or agrees to negotiate with a defined group of employees—a *bargaining unit*—who are represented by a union. Requirements for recognition vary from state to state, and range from a local, informal acceptance of the "bargaining representative" (the union to which the bargaining unit is affiliated) and the specific group of employees (unit) to be represented, to more complex state-level procedures. Virtually all state bargaining laws provide that bargaining units be accorded the status of *exclusive representative*.² These laws generally provide procedures that must be followed in order to attain that status. Prospective exclusive representatives (for the bargaining units) must provide to employers or designated state-level agencies some form of proof of employee support, or *showing of interest*.³ This often takes the form of the submission of signature cards or signed petitions that represent from 25 or 30 percent to a simple majority of the total number of employees, both union and nonunion, who would be represented by the bargaining unit. If the acceptable percentage of the employees indicates support for the unit; if another union does not challenge the petition for recognition by also seeking representation rights; if those employees who are not members of the union do not indicate that they wish to challenge the petition and if the designated unit composition is accepted by the employer, recognition may occur. But the process does not necessarily end here. Some states—even in the absence of a challenge and with the presence of a perfectly acceptable and appropriate unit—require secret-ballot elections to be held before a union is officially recognized as a bargaining agent. These elections may be conducted and/or supervised locally or at the state level. They always must be conducted if the employer doubts that the union (employee organization) has enough employee support to warrant recognition, or when two or more unions petition for representation rights for the same group of employees. In the latter case, the first union petitioning for recognition must show more support than a challenging union; but even challenging unions must be able to show a minimum of 10 or 15 or 20 percent employee support in order to get on the ballot.⁴ Almost always, employees voting in a secret-ballot election for representation are accorded the choice of "no representation" on the ballot. In most states, if one union does not get a clear majority of the votes, run-off elections must be held.

Bargaining Unit, Union Security

Election results will either grant bargaining rights to a specific union or will show that a majority of employees do not wish bargaining rights at all. When a union has secured approval of the composition of the unit at either the state or local level and, if required, subsequently wins an election, it is declared the exclusive representative of the employees in the unit. Since all states provide for exclusive representation and multi-unit recognition is the rare exception, this facet of union security — *exclusive representation* — is not noted on the chart.

The union is guaranteed the rights of an exclusive representative for its *certified* (approved) unit for a specified period of time: one, two or three years, for example, or the duration of a contract (agreement). It may not be challenged until the specific time period is close to expiration, or if it loses its certification because it has violated the law or its bargained contract. In a number of states a union may lose its rights as an exclusive representative if it commits certain unfair practices or engages in an illegal strike.

The composition of the bargaining units is regulated by state law, and again provisions for unit determination range from the vague and amorphous, to criteria for determination, to specific units named and detailed in the law. A number of states further refine their control of unit composition by detailing in their laws the kinds of employees who may or may not be included in specific units. For example, a majority of states require that professional and nonprofessional employees be in separate units, or that supervisors and nonsupervisors have separate units. Most states use common criteria for unit determination.

Employee Organization Rights and Responsibilities

Once an employee organization is recognized and the unit is certified as appropriate, as a rule it is accorded certain rights that go with its status as exclusive representative. These, like other provisions in the laws, vary from state to state; and may be as minimal as the basic immunity to challenge for stipulated periods of time, or may include requirements for the employer to provide meeting places for the unit, mail boxes and time off for those involved in negotiations. Further union security is provided in many laws that permit, or in a few cases require, the employer to deduct union dues (*dues checkoff*) from employees' paychecks. In addition, some of these laws permit a union to collect *service fees* (in the amount of union dues or in specified or proportionate amounts linked to legitimate costs of representation) from nonunion members who are represented by the bargaining unit.

In a few states, for example, Montana, Oregon and Washington, individuals may be granted a religious exemption from the payment of service fees to the organization, but must donate an equivalent amount of money to a nonreligious charity and furnish proof of such a donation. Other states, i.e., Iowa and Massachusetts, put constraints on the use of these service fees by the organization receiving them. Iowa provides penalties for the use of such fees to make "any direct or indirect contribution out of the funds of the employee organization to any political party or organization or in support of any candidate for elective office" (this, of course, applies to union dues too). Massachusetts specifies that employees may demand a "rebate of that part of said employee service payment, if any, that represents a pro rata share of expenditures by the organization or its affiliates for: (1) contributions to political candidates or political committees formed for a candidate or political parties; (2) publicizing of an organizational preference for a candidate for political office; (3) efforts to enact, defeat, repeal or amend legisla-

tion unrelated to the wages, hours, standards or productivity and performance and other terms and conditions of employment, and the welfare or the working environment of employees represented by the exclusive bargaining agent or its affiliates; (4) contributions to charitable, religious or ideological causes not germane to the governance or duties as bargaining agent or its affiliates and available only to the members of the employee organization." Other states also provide that union dues and service fees that are inappropriately used may be challenged and rebated. A few state laws provide for "maintenance of membership," where an employee who is a member of a union must remain a member of the union for the duration of the current contract. If *service fees*, also known as *fair-share fees* or *agency shop fees*, are collected, an agency shop exists. When all employees represented by the union must be members of the unit, a *union shop* exists, and this is probably the tightest form of union security. Public employee laws in Alaska, Oregon and Pennsylvania permit union shops:

Middle-Management Provisions

Over the past few years the issue of collective bargaining rights for administrators, supervisors and other middle-level personnel has received increasing attention. Unlike the National Labor Relations Act (NLRA) for private employees, about two-thirds of the states with education bargaining laws provide bargaining rights for at least some middle-level personnel—either by granting such rights directly in their laws, or by failing to exclude supervisors from coverage. These rights are sometimes carefully circumscribed by the definitions sections of state laws, which most often use the NLRA definition of supervisor so that a determination can be made of who is and who is not a supervisor. Some of the state laws further control supervisor or middle-management bargaining rights by defining management personnel and administrative personnel and even naming specific job titles for inclusion or exclusion in bargaining units. Of the 31 states that provide bargaining rights to professional education personnel, 24 provide such rights for supervisors, and five of these grant these rights to certain management personnel.

Most frequently these state laws require that supervisors and management bargain in separate units, but there are some states that permit these personnel to be included in lower-level units under certain conditions. Tennessee, the latest state to join those states that have bargaining laws for education personnel (1978), wrote an unusual provision for management personnel into its new law. The law specifies that "the board of education may designate and certify specific individuals as management personnel," who will be allowed to retain membership in the bargaining unit, but not for negotiating purposes; and indeed who may be appointed to represent the board of education in negotiation activities. In Maryland a similar approach is used: principals may be placed on management bargaining teams.

Administration

States, in their handling and implementation of their public employment collective bargaining laws, resort to a variety of techniques for their administration. These range from local administration of the law (with the school board, for example, establishing rules and regulations for unit determination and conduct of bargaining) to administration by fairly sophisticated state-level boards and agencies, such as the Public Employment Relations Board (PERB) structured by the New York law. These state-level boards and agencies become the funnel through which all procedures must pass, and exercise a quasi-judicial capacity with

rulings on representation cases, disputed unit determinations and unfair practices. Regardless of the complexity of the administrative structure, however, in all states the courts are available at various points in the process and most certainly as a last resort. The trend in this area appears to be that of placing parts or all of the process under the jurisdiction of a public employment relations board (PERB), modeled to some degree on the National Labor Relations Board. Responsibilities outlined in the state laws vary for these boards. They may include overseeing elections for unit recognition, determination of unit composition, assistance with the settlement of bargaining impasse disputes, grievance procedures and resolution, and rulings on unfair practices and appeal processes. A more extensive discussion of the subject will be found on page 51 of this book.

Scope of Bargaining, Management Rights

The scope of bargaining encompasses those items that are actually put on the bargaining table for negotiation. Historically, this has been identified as wages, hours and terms and conditions of employment; and this phrase or a very similar one is what delineates the scope in many states. Over the past few years, however, a number of states have seen fit to define the term more clearly in their laws. They have gone so far as to list specific items that must be bargained, along with other specific items that may not be bargained. On the chart, provisions for mandatory scope are shown almost exactly as they appear in state laws.

Interpretation of these portions of state laws has been a continuing challenge. When disputes arise over items that should or should not be placed on the bargaining table as wages, hours and terms and conditions of employment, or on items on which the law is silent, the legal scope of bargaining must be further pinpointed by decisions from a public employment relations board, some other state administrative agency, the courts or attorneys general. These are some of the ways in which the scope of bargaining in the states is expanded or limited or refined.

Management rights that are listed and/or described in state laws restrict the scope of bargaining through exclusion. These rights generally deal with the policy-making functions of management, particularly those that are granted by statute or ordinance; or that are related to the direction of the employees and the operation of the agency or institution of government office; and overall budgetary matters.

Another approach to limiting scope of bargaining can be found in sections of the state laws that provide what or what not a contract may contain. These provisions may exclude from contracts areas covered by statute; may protect federal aid programs from being affected by bargained contracts or may provide for legislative acceptance or rejection of cost items in contracts which, if rejected, would be subjected to renegotiation. An attempt has been made in the charts to comment on these provisions.

As noted above, a special effort has been made to carefully detail the mandatory scope of bargaining in the appropriate column. The reader should be aware, however, that extended definitions of scope always are found outside the statutes. For example, the New Jersey Public Employment Relations Commission has decided over 150 scope-of-negotiations cases since 1975.⁵

Bargaining Impasse Resolution Procedures

Provisions for bargaining impasse procedures differ from state to state, from extremely detailed structures and processes that take many paragraphs in the

law to almost casual treatment. Sometimes procedures for handling impasse are developed and/or expanded by the public employment relations board, or some other state or labor relations agency. Sometimes they are worked out by the bargaining parties within a loose legal framework. Accepted procedures for dealing with impasse may be divided into three steps: mediation, fact-finding and arbitration. State laws provide for one or more of these steps and/or give the bargaining parties the authority to work out their own procedures.

Mediation is the process that is universally instituted first after an impasse is declared. The parties select a mediator or panel of mediators (or one is appointed by a state-level agency) to assist them in a resolution of their differences. The mediator works with both parties separately, or together, reasoning, coaxing, suggesting compromises, pointing out possible trade-offs and generally making every possible effort to mediate or conciliate the dispute. In certain bargaining laws covering education personnel provide for the use of some form of *arbitration* is moved along to the fact-finding process.⁶

Fact-finding is a term that is almost self-explanatory. After mediation has failed, in most instances a fact-finder will be selected by the parties or appointed pursuant to procedures outlined in the law to gather together all of the facts that are relevant to the dispute, to analyze them and to make recommendations for settlement based on the evidence provided by the facts. If the fact-finding recommendations are rejected, about two-thirds of the states with bargaining laws covering education personnel provide for the use of some form of *arbitration*, in which the final decision on the dispute is made by a third party or parties selected jointly by the disputing parties or appointed by a state-level agency. For the other one-third of the states, the fact-finding process is the last step outlined in the law.

Provisions for *interest arbitration* (a term for resolution of contract disputes, not to be confused with grievance arbitration) vary from state to state. The most common approach is to provide that the parties may agree to binding interest arbitration at the time of contract negotiation, or at the time of impasse. This is voluntary arbitration. A few states, i.e., Maine, Pennsylvania and Rhode Island restrict arbitration awards to certain items only—like those that are mandatory negotiable items, or those that do not involve funding or costs. Delaware law flatly prohibits arbitration of K-12 contract disputes. The strongest provisions for arbitration are those that make the procedure compulsory either by law or at the initiative of the state agency administering the law. Connecticut and Wisconsin have laws that make arbitration truly compulsory for both parties. Some of the other laws, for example Iowa, provide for binding arbitration at the request of either party, thus making it a compulsory process for at least one of the parties. See Appendix A.

Grievance Procedures

Often grievances are defined in state laws as complaints by either party related to the application and/or interpretation of a bargained agreement. Provisions in most state laws grant public employees the right to discuss and/or file grievance complaints whether or not related to the application and/or interpretation of the agreement, as individuals, not necessarily represented by the employee bargaining unit, but in a majority of cases with a representative of the bargaining unit informed or present. Most of the state laws allow for or require the inclusion in bargained agreements of procedures for the resolution of grievance complaints. And because a number of the state laws list "failure to comply with the terms of a bargained agreement" as an unfair practice, procedures for resolution of unfair practice charges may also be used as grievance procedures in those states.

Unfair Practices, Strikes and Penalties

Provisions listing unfair practices may be short or lengthy, but the overall intent of such provisions is essentially the same across the states. Many of the laws contain nearly identical descriptions that broadly or specifically cover the range of unfair practices. Unfair or prohibited practices are sometimes delineated in two listings: one for the employer and one for the employee organization. Generally an employer is prohibited from interfering with the employees' and/or the employee organization's rights under the bargaining law, hiring and employment discrimination, dismissal of employees because they exercise their rights under the law, communication with employees other than through their authorized representatives during the bargaining process, refusal to bargain in good faith and violations of written contracts. Employees or employee organizations generally are prohibited from interfering with the employer's or individual employees' rights under the law, communication with employer officials other than through the designated bargaining agent during the negotiations process, refusal to bargain in good faith and violations of written contracts.

Some state laws list illegal strikes by employees and lockouts by employers as unfair practices. Only a few states permit strikes by education employees. In no case is this strike permission unconditional. See Appendix A.

Some of the state laws not only list unfair practices but provide procedures for dealing with them. Usually the provisions in the law require an investigation of the charges of unfair practice, a determination of which if any laws or rules or agreements have been violated and a decision as to who is at fault. At this point either a dismissal of the charges is required, or some form of cease-and-desist order must be issued. Unfair practice charges may be handled by a state-level administrative agency or a PERB or may go directly to the courts, depending on the state.

Penalties for the commission of unfair practices vary widely. In some states employees or employers face fines for continuing violation of state agency stop orders or court injunctions. A number of states permit the application of discipline and even jailing of employees engaged in illegal unfair practices and/or strikes. Rights of appeal are almost universally granted.

Final Form, Deadline Dates

In this column there are notes that indicate whether or not a bargained agreement must be reduced to a written contract. If there is a specified time limit for contracts to run, and if contracts must be completed by special dates or at a certain point in a time line for budget completion, this information is also included.

Comments

Miscellaneous information that may be useful to the reader is placed in the comments column. This includes notes on other state public employment bargaining laws that do not apply to education, court cases that are relevant to one or more of the columns in the chart, attorneys general opinions, stipulations for legislative body approval of bargained agreements and special provisions for postsecondary student participation in the bargaining process.

Postsecondary student participation in the bargaining process that takes place for the institutions they attend is probably the earliest offspring of the move over

the past ten years or so toward bargaining in the sunshine (discussed in the next section). While it is possible and even probable that students participate in the bargaining process in institutions in states that do not grant them such statutory rights, only a few states, Alaska, Florida, Maine, Montana and Oregon, provide such privileges in their education bargaining laws. Perhaps the word "participation" is a misnomer since the student or students selected for involvement in the process are not granted voting rights. What they are given is an opportunity to sit in on the negotiating sessions, to have access to the written materials related to the sessions, to comment during the sessions on the matters under discussion and to meet and confer with both parties prior to the completion of a written contract. Most often these students must observe the rules of confidentiality.

Open Meeting Provisions

In the 1978 issue of "Cuebook" open meeting provisions were included in the charts. They have been removed from the charts for this edition (but not excluded from the book) for two reasons: (1) to provide a little more space on the charts, and (2) because many of the state laws for public employment bargaining do not contain these provisions—which may be found in other sections of the state statutes dealing with open meetings and records.

Open meeting laws were passed so that the public could have an opportunity to be present at, to observe and to monitor the discussions and decisions of public governing boards, commissions, agencies and other bodies. The several states have chosen differing approaches in their application of their open meeting laws to the bargaining process. These are noted in the state-by-state listing on page 48.

The subject has been controversial over the last decade, and continues to stimulate pro and con discussion. "Purists" claim often that the bargaining process is not suited to the open meeting concept, and that the delicate give-and-take atmosphere of proposals and counterproposals, compromise and trade-off, is stifled in an open session or in sessions where a third nonbargaining observer or participant is present. Those on the other side of the fence point to the public interest in government and education employee bargaining, and claim that school boards, for example, do not adequately represent that interest at the bargaining table.

The section above noted that postsecondary students sometimes may be a third party at the bargaining table. In some bargaining situations that third party may be a parent, sitting in as an observer or as a limited participant in bargaining sessions between school boards and teachers. One of the best publicized examples of parent participation in the bargaining process was in Syracuse, New York, where, in 1977, the school district placed a parent representative on its negotiating team. This representative was immersed in nine months of hard bargaining which included mediation sessions before the school board and the teachers arrived at a mutually satisfactory agreement.⁷

While state laws have not specifically mandated parent participation in the bargaining process, this trilateral concept has been explored in other school districts in other states, i.e., New York, Pennsylvania and Florida. There is a fair amount of information available on the subject of open bargaining, but this book will do no more than note the provisions for open and closed bargaining sessions in states that have education employment collective bargaining laws. The listing on page 48, validated by review by state labor relations agencies, will provide the reader with limited basic information.

¹Laws in Connecticut, Idaho, Maryland, Michigan, Missouri, Oklahoma and Rhode Island have three or fewer definitions. The Nebraska teacher law contains no definitions. The Minnesota Public Employment Labor Relations Act has 15

²One exception to this rule is the Minnesota Public Employment Labor-Relations Act which provides for exclusive representation rights to bargaining representatives; but additionally provides for joint representation of two unions representing portions of the same group of employees, and requires them to form a committee for bargaining purposes. This is *multi-unit bargaining*.

³A few states require considerably more than a show of interest and an election for an organization to qualify for designation as exclusive representative. For example, Florida, Hawaii and Nevada require employee organizations to register with a state agency or board. The amount of information required in these registrations varies from state to state. Florida probably has the most extensive provisions for registration.

⁴Idaho, presumably in order to avoid capricious challenges in the union recognition process, requires organizations who wish to be on the ballot in a representation election to pay a \$250 "filing fee" which is refunded only if the organization gets more than 15 percent of the vote.

⁵*The Scope of Negotiations: A Threat to Public Education?* (Trenton, New Jersey: New Jersey School Boards Association, 1980), p.3.

⁶In Maryland, bargaining impasse resolution procedures in the law stop at mediation. Certain laws in Alaska, Maine, Massachusetts, Minnesota, Nebraska, Rhode Island and South Dakota either do not require the fact-finding step or provide that it may be waived.

⁷"Public Access to Collective Bargaining in Public Education: Parent Participation in Rochester, New York, October 1977 - October 1978." A paper by Gayle Dixon, parent representative, Rochester City School District Negotiation Team.

II. Summary Table

II. Summary Table

State Public Employee Collective Bargaining Laws Affecting Education

State	Number of Statutes ¹	Type of Laws				Professional Coverage ⁵			Classified Coverage ⁶			Supervisor Coverage ⁷			Union Security Provisions ⁸
		Local ²	State ³	Omnibus ⁴		K-12	CC ⁹	PS	K-12	CC ⁹	PS	K-12	CC ⁹	PS	
Alabama															AL
Alaska	2	x		x	x		x			x	x			x	AK
Arizona															AZ
Arkansas															AR
California	3	x	PS		x	x	x	x	x	x				x	CA
Colorado															CO
Connecticut	3	x	x		x	x	x	x	x	x	x	x	x	x	CT
Delaware	2	x			x		x	x		x				x	DE
Florida	1			x	x	x	x	x	x	x				x	FL
Georgia															GA
Hawaii	1			x	x	x	x	x	x	x	x	x	x	x	HI
Idaho	1	x			x						x				ID
Illinois															IL
Indiana	1	x			x									x	IN
Iowa	1			x	x		x	x		x				x	IA
Kansas	2	x		x	x	x	x	x	x	x				x	KS
Kentucky															KY
Louisiana															LA

II. Summary Table (continued)

State Public Employee Collective Bargaining Laws Affecting Education

State	Number of Statutes ¹	Type of Laws			Professional Coverage ⁵			Classified Coverage ⁶			Supervisor Coverage ⁷			Union Security Provisions ⁹	
		Local ²	State ³	Omnibus ⁴	K-12	CC ⁵	PS	K-12	CC ⁶	PS	K-12	CC ⁷	PS		
Oklahoma	1	x			x			x			x			x	OK
Oregon	1			x	x	x	x	x	x					x	OR
Pennsylvania	1			x	x		x		x	x			x	x	PA
Rhode Island	3	x	x		x		x							x	RI
South Carolina															SC
South Dakota	1			x	x		x			x	x		x		SD
Tennessee	1	x			x										TN
Texas															TX
Utah															UT
Vermont	3	x	x		x		x		x	x		x	x	x	VT
Virginia															VA
Washington	4	x	CC		x	x		x	x	x	x	x	x	x	WA
West Virginia															WV
Wisconsin	2	x	x		x	x	x	x	x	x	x	x	x	x	WI
Wyoming															WY
District of Columbia	1	x			x		x				x		x	x	DC
TOTALS		19	7	17	32	12 ⁸	24	27	12 ⁸	24	20 ⁸	5	13	26	

III. State Collective Bargaining Laws Affecting Education 1980

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State, Reference, Identification	Coverage, Exclusions	Bargaining Unit, Union Security	Middle-Management Provisions	Administration	Scope of Bargaining, Management Rights
ALABAMA	Teachers may consult with superintendents re: education policy: T.52, 73, 166. A statutory prohibition of public employee membership in labor unions was declared unconstitutional in 1972. State has firefighters bargaining: Tit. 37, § 450 (3)				
ALASKA Statutes: § A 14.20.550 through A 14.20.610 CB K-12 P Local Level Enacted: 1970 Last Amended: 1975	Certificated employees, K-12 level	Certificated employee units No union security	Certificated administrative personnel, including principals, assistant principals, may bargain separately. Superintendents are excluded	Local school boards or school boards of regional education attendance areas	Matters pertaining to employment and fulfillment of professional duties Legal rights of school boards protected
ALASKA Statutes: Public Employment Relations Act: § 23.40.010 through 23.40.260 CB PS P-C Omnibus Enacted: 1959 Last Amended: 1978	All public employees of state and political subdivisions. Post-secondary professional and classified Excluded: elected, appointed, school district personnel	Units determined by department of labor or state personnel board Union shop, dues checkoff, service fees permitted	No specific provisions	Department of labor or state personnel board	Wages, hours, terms and conditions of employment (defined as hours, compensation and fringe benefits, personnel policies affecting working conditions) Merit system protected
ARIZONA	State has no public employee collective bargaining legislation				
ARKANSAS	State has no public employee collective bargaining legislation				
CALIFORNIA Education Employees Collective Bargaining: SB 160, 1975 § 3540 - 3549.3 CB K-12 P-C CC Local Level Enacted: 1975 Last Amended: 1980	All public school employees, K-14 certificated and classified Excluded: elected, appointed, managerial and confidential	Separate units for classified, certificated and supervisors Dues checkoff, service fees permitted	Supervisors may bargain. Unit must include all supervisors; must not have same bargaining agent as non-supervisory unit. Unit determination by board if in dispute. Management positions are designated by employer and may not bargain	Public Employment Relations Board (PERB): 3 members appointed by governor with senate confirmation	Wages, hours, 7 other terms and conditions of employment as defined in act: health and welfare benefits; leave; transfer and reassignment; safety; class size; employee evaluation procedures; organizational security; grievance procedure; probationary layoffs. Certificated may consult only on education objectives, course content, curricula, textbook selection School board has final authority on employee relations. Tenure, merit system, civil service protected. Legal management functions protected

Bargaining Impasse Procedures	Grievance Procedures	Unfair Practices, Strikes and Penalties	Final Form, Deadline Dates	Comments
Parties may select mediator, or request mediator from Federal Mediation and Conciliation Service. Advisory arbitration may follow, arbitrator selected by governor	Must be bargained. Must include binding arbitration and method for selecting arbitrator	No specific provisions	No specific provisions	
Mediation and arbitration through department of labor or state personnel board. Bargained arbitration procedure may follow Uniform Arbitration Act	May be bargained. May include binding arbitration. Unresolved complaints to department of labor or state personnel board for fact-finding, hearings, decision	Standard provisions for unfair practices Education strikes permitted after mediation; must be followed by binding arbitration	Written agreement not to exceed 3 years Completed in advance of budget-making process	Bargained items requiring funding are subject to legislative approval. Salary differential plan must be included in agreement. Postsecondary students may observe bargaining sessions, have access to documents, confidentiality required
Mediation, fact-finding, advisory recommendations. Mediator must recommend fact-finding	May be bargained. Binding arbitration on interpretation of agreement permitted. Limited rights of court review	Standard provisions for unfair practices, injunctive relief, court review No specific provisions for strikes	Written agreement at request of either party not to exceed 3 years No deadline specified	Act may not preempt Education Code Other bargaining laws not covering education include: Public Employee law: § 3500-10 of Government Code; State Employees Right to Organize and bargain: § 3525-3536 Separate provisions established for LA municipal, LA county and SF city and county employees

State, Reference, Identification	Coverage, Exclusions	Bargaining Unit, Union Security	Middle-Management Provisions	Administration	Scope of Bargaining, Management Rights
CALIFORNIA State Employer-Employee Relations Act: § 3512-3524 MC K-12 P (State) State Level Enacted: 1977 Last Amended: 1979 NOTE: THIS ACT WAS DECLARED UNCONSTITUTIONAL BY THE CALIFORNIA COURT OF APPEALS IN 1980	Civil service, state employees and teaching staff of schools under jurisdiction of state department of education. K-12 professional employees of SDE-operated schools Excluded: managerial, confidential	Community-of-interest units with rebuttable presumption for separation of professionals and non-professionals Dues checkoff, maintenance of membership permitted	Supervisory employees may meet and confer on all matters relating to employment conditions, supervisory/personnel relations, wages, hours and other terms and conditions of employment. No memorandum of understanding. No exclusivity or majority representation	Public Employment Relations Board (PERB): 3 members appointed by governor with senate confirmation. Governor or representative is employer. Excluded: managerial, confidential	Wages, hours, other terms and conditions of employment. Laws and executive orders may not be discussed
CALIFORNIA Higher Education Employee Bargaining § 3560-3599 MC PS P-C Postsecondary Enacted: 1978 Last Amended: 1979	All employees of 4-year state universities and colleges. Postsecondary professional and classified employees Excluded: managerial, confidential and certain others	Community-of-interest units with rebuttable presumption for separation of professionals and non-professionals. University of California senate members must have statewide or divisional units. Separate or combined units for supervisors Dues checkoff permitted. Maintenance of membership permitted	Supervisory employees may meet and confer only on all matters relating to employment conditions, supervisory/personnel relations, wages, hours and other terms and conditions of employment. No right to form bargaining units or to exclusive representation. No written contracts	Public Employment Relations Board (PERB): 3 members appointed by governor with senate confirmation. Governor or representative is employer	Wages, hours of employment and other terms and conditions of employment. Consult only on activities regulated by laws and regulations, student fees, admission requirements, degree requirements, curriculum, instruction, research programs, tenure
COLORADO State has no public employee collective bargaining legislation					
CONNECTICUT Municipal Employees: § 7-467 - 7-478 CB K-12 C Local Level Enacted: 1965 Last Amended: 1979	Political subdivision employees including classified school district personnel Excluded: elected officials, administrators, board and commission members, certificated teachers, part-time employees of less than 20 hours/week, department heads and certain others	Appropriate units: separate units for professionals and nonprofessionals unless combined by vote of professionals. Separate units for supervisory employees. Only one supervisory unit per school board Dues checkoff permitted	Supervisors may bargain in separate units	State Board of Labor Relations (SBLR): 3 members, 2 optional alternates appointed by governor State Board of Mediation and Arbitration (SBMA): 6 members; 2 neutrals, 2 managers, 2 union members appointed by governor	Wages, hours, other conditions of employment. Management rights, merit system protected
CONNECTICUT State Employee Collective Bargaining: § 5-270 - 5-280 CB PS P/C CC State Level Enacted: 1975 Last Amended: 1978	All state employees. Postsecondary professional and classified Excluded: elected, appointed, board and commission members, part-time, confidential	Appropriate units, community of interest. Professionals may vote to be in nonprofessional unit. Separate units for faculties of University of Connecticut, state colleges, community colleges, technical colleges, vocational schools. Non-faculty professional staff of these institutions may by mutual consent be included in units or form separate bargaining units. Multi-unit bargaining OK. Statewide units preferred Dues checkoff, service fees permitted	Supervisors are not prohibited from bargaining in the act	State Board of Labor Relations (SBLR): 3 members, 2 optional alternates appointed by governor. Postsecondary negotiations with appropriate institutional board State Board of Mediation and Arbitration (SBMA): 6 members; 2 neutrals, 2 managers, 2 union members appointed by governor	Wages, hours, and other conditions of employment Merit system protected

Bargaining Impasse Procedures	Grievance Procedures	Unfair Practices, Strikes and Penalties	Final Form, Deadline Dates	Comments
Mediation through PERB	No specific provisions	Standard provisions for unfair practices No specific provisions for strikes	Written memorandum of understanding to legislature prior to budget adoption date	Specified sections of state law may be preempted by memorandum of understanding. Legislature must approve provisions that require amendment to state law other than specified sections. Cost items must be approved by legislature
Mediation, fact-finding, advisory recommendations through PERB on request of either party. Mediation request must be approved by PERB. Request for fact-finding by either party is automatically processed if mediator certifies dispute to fact-finding	May be bargained, may include final and binding arbitration. PERB may provide arbitrator list	Standard provisions for unfair practices No specific provisions for strikes	Written memorandum of understanding to legislature for any items requiring budgetary funding	Expression and dissemination of views in visual form is not an unfair labor practice unless containing a threat or promise of benefit. At bargaining sessions governor and legislature are represented—only for CSUC, not UC Cost and legislative items in bargained agreement must be submitted to governor and legislature. If legislature rejects, renegotiation is prescribed Specific sections of state law may be preempted by memorandum of understanding Law provides for limited participation in negotiations for student representative
SBMA available for mediation, fact-finding at request of either party, or on SBMA initiative. Final and binding arbitration, including consideration of last best offer, may be requested by either party or imposed by SBMA	May be bargained. SBMA available	Standard provisions for unfair practices Strikes prohibited No penalties specified	Written contract required	Contract must be submitted to legislature 14 days after contract negotiated Agreements must be approved by appropriate legislative body; if rejected, must be returned to parties for further bargaining. Funding must be provided after approval. Federal approval must be obtained when indicated Terms of the agreement prevail over charter, special act, ordinance, rules, regulations, statutes
SMBA available for mediation and arbitration. Either party may petition SBMA for fact-finding (or SBMA may order fact-finding if either party refuses to bargain in good faith)	No specific provision. SBMA available	Standard provisions for unfair practices Strikes prohibited No penalties specified	Written contract	Contract must be submitted to legislature 14 days after contract negotiated Requests for funds and agreements in conflict with statutes must be approved by legislature. If rejected, renegotiation prescribed. Terms of approved agreement prevail over state law, rules

State, Reference, Identification	Coverage, Exclusions	Bargaining Unit, Union Security	Middle-Management Provisions	Administration	Scope of Bargaining, Management Rights
CONNECTICUT General Statutes Annotated: § 10-153a through 10-153g CB K-12 P Local Level Enacted: 1958 Last Amended 1979	All certificated professional employees of town and regional boards of education K-12 level Excluded: superintendents and persons responsible for budget preparation, personnel relations and temporary substitutes	Certificated personnel in "teacher" or "administrator" unit Dues checkoff, service fees permitted	Intermediate administrators and supervisors may bargain in separate "administrators" unit, or in combined unit with nonadministrators by mutual agreement Superintendents and certain others may not bargain	Local and state boards of education State department of education 15-member arbitration panel appointed by governor with general assembly confirmation. Equal representation for employer, employee, public State Board of Labor Relations (SBLR): 3 members, 2 optional alternates appointed by governor	Salaries and other conditions of employment about which either party wishes to negotiate.
DELAWARE Code: Right of Public Employees to Organize: Tit. 19, Ch. 13, § 1301 through 1312 MC PS: K-12 P-C C Omnibus Enacted: 1970 Last Amended: 1973	Any employee of any state, county, municipal corporation, city or town, or any agency thereof Excluded: elected, appointed, certificated public school employees	Determined by Department of Labor and Industrial Relations Dues checkoff permitted	No specific provisions	Department of Labor and Industrial Relations (DLIR)	Employee relations, wages, salaries, hours, vacations, sick leave, grievance procedures, other terms and conditions of employment
DELAWARE Code: Tit. 14, Ch. 40, § 4001-4013 MC K-12 P Local Level Enacted: 1969	All certificated nonadministrative employees, K-12 level Excluded: supervisory and staff personnel	All covered employees Dues checkoff permitted	Supervisors may not bargain	Local boards and state board of education	Salaries, employee benefits and working conditions must be bargained Policy-making rights of employer protected
FLORIDA Statutes: Public Employee Relations Act: § 447.201 through 447.609 CB K-12 P-C PS CC Omnibus Enacted: 1974 Last Amended: 1979	Public employees: K-12 and post-secondary levels included: professional and classified Excluded: elected, appointed, confidential, managers, school administrators	Criteria listed for appropriateness of unit. Final review of unit determination by PERC. Statewide units permitted. Separate units for professionals and nonprofessionals unless both vote to combine Dues checkoff for bargaining agent required if requested	Managerial employees defined in act; i.e., school administrators (principals, instructional supervisors and professional administrative assistants) may not bargain. Supervisors not defined as managerial may bargain	Public Employment Relations Commission (PERC): 3 members appointed by governor, confirmed by senate. Under department of labor and employment security	Terms and conditions of employment; grievance procedures Management rights, merit system protected
GEORGIA State has Firefighters Bargaining Law: HB 569.L.1971					

Bargaining Impasse Procedures	Grievance Procedures	Unfair Practices, Strikes and Penalties	Final Form, Deadline Dates	Comments
Mediation and compulsory binding arbitration through state department of education; commissioner and selected arbitrator or panel of 3. Issue-by-issue, last best offer final decisions. Court review	Must be bargained. May include binding arbitration	Standard provisions for unfair practices Strikes prohibited; injunctive relief SBLR has jurisdiction for unfair practice complaints	Written agreement. Multiple year contracts permitted In time for budget-making process	Agreement is binding on legislative body of town or regional district unless rejected by such body; renegotiation prescribed. Local finance board representative may be present during negotiations and must provide fiscal information
State mediation service and/or arbitration at request of either party. Wages and salaries may not be submitted to arbitration	Must be bargained	Standard provisions for unfair practices Strikes prohibited No penalties specified	Written agreement No deadline specified	A meet and confer law
Mediation, fact-finding, nonbinding recommendations at request of either party. Binding arbitration by a third party is prohibited	No specific provisions	Unfair practices defined as any tactic that circumvents teacher contracts Strikes prohibited Loss of unit recognition and dues checkoff for violation Attorney General opinion: Pay loss for striking employees SDE rule: Lost strike days may not be re-scheduled	Form of minimum 2-year agreement not specified No deadline specified	A meet and confer law If law is in conflict with other statutes, those statutes prevail Agreements may not conflict with provisions of Chapter State Gas Transit Authority Employees Bargaining Rights: Tit. 2, § 1613 - 1614
Non-mandatory mediation, "special master" for public hearings, fact-finding. Settlement by appropriate legislative body. Governor may recommend solution to Board of Regents	Must be bargained; must include binding arbitration. Arbitration continues during hiatus between contracts	Standard provisions for unfair practices; injunctive relief Strikes prohibited, listed as unfair practice; injunctive relief Fines, damages, probation, loss of unit recognition for violation, court review	Written contract not to exceed 3 years No deadline specified	Local jurisdictions may adopt "substantially equivalent" procedures. Student representative (one selected by each community college student government association and the council of student body presidents) may be present at all negotiating sessions If legislative body does not appropriate sufficient funds to cover contract, contract must be administered with lesser appropriation. Provisions in contract that are in conflict with law, ordinance, rule, regulation are not effective unless and until such laws, etc. are amended by appropriate legislative body

State, Reference, Identification	Coverage, Exclusions	Bargaining Unit, Union Security	Middle-Management Provisions	Administration	Scope of Bargaining, Management Rights
HAWAII Statutes: Public Employees Act, § 89-1 through 89-21 CB K-12 P-C PS CC Omnibus Enacted 1970 Last Amended 1980	Any person employed by a public employer, K-12 and postsecondary levels, professional and classified Excluded: elected and appointed officials, confidential, certain other and top level management. Students and student help of state institutions excluded from Act	13 categories for appropriate units listed, including teachers and other personnel on same salary schedule; education officers and others on same salary schedule; faculty of University of Hawaii and Community College System, other postsecondary personnel Dues checkoff, service fee mandatory (PERB approval required for proposed fee)	Supervisors, as defined by salary scale and nature of work, may bargain in "blue collar units," "white collar units" or combined supervisory/nonsupervisory units (in the optional occupational units) by mutual consent	Within Department of Labor and Industrial Relations, Public Employment Relations Board (PERB) consists of 3 members: 1 management, 1 labor, 1 public, appointed by governor Under separate law Governor has Office of Collective Bargaining with chief negotiator and researcher appointed by governor. Chief's salary aligned with department heads. Office to assist governor in plans re objectives, management philosophy and strategy, negotiations, coordination of dispute settlement, data compilation, annual and special reports	Wages, hours, other terms and conditions of employment except as otherwise provided in Act. All matters affecting employee relations including subjects of employer regulations are subject to consultation. Specific exclusions are classification, public employees health fund, retirement benefits, salary ranges and steps Extensive management rights; merit system protected
IDAHO Code: § 33-1271 through 33-1276 MC K-12 P Local Level Enacted: 1971 Last Amended: 1977	Certificated employees of school districts, K-12 level No union security	Bargaining units not defined No union security	Superintendents, supervisors and principals may be excluded from professional employee group by agreement, but apparently are not precluded from bargaining	Local board of trustees of school district	To be specified in agreement School board "necessary action" protected
ILLINOIS State has no public employee collective bargaining legislation. Under a 1966 judicial ruling, teachers and local employees may bargain collectively. State universities have conducted bargaining under personnel code. State and executive branch employees, under 1973 executive order, may negotiate wages, hours and certain conditions of employment not regulated by law. HB 1343 of 1975 allows Chicago school board and employees to bargain.					
INDIANA Burns Annotated Statutes: § 20-7-5-1-1 through 20-7-5-1-14 CB K-12 P Local Level Enacted: 1973 Last Amended: 1978	Certificated employees, K-12 level Excluded: supervisors, confidential employees, security employees and non-certificated employees	Certificated employee organization. Parties may agree on appropriate unit Dues checkoff permitted	Superintendents, business managers, directors, principals, department heads, supervisors may not bargain. Superintendents may make recommendations to employer	Education Employment Relations Board (EERB): 3 members appointed by governor	Salaries, wages, hours and salary and wage-related fringe benefits, "Discussion" permitted on working conditions; curriculum development and revision; textbook selection; personnel assignment or promotion; student discipline; expulsion or supervision of students; pupil-teacher ratio; class size or budget appropriations Extensive management rights listed

Bargaining Impasse Procedures	Grievance Procedures	Unfair Practices, Strikes and Penalties	Final Form, Deadline Dates	Comments
<p>May be bargained. May culminate in final and binding arbitration. Mediation, fact-finding and binding arbitration (by mutual agreement) available through PERB</p> <p>In absence of arbitration, parties free to take any lawful action to settle the dispute</p>	<p>May be bargained. May culminate in final and binding arbitration. If not bargained, must be submitted to PERB for final and binding decision</p>	<p>Standard provisions for unfair practices</p> <p>Strikes permitted after fact-finding: (1) if parties do not mutually agree to arbitration, (2) by employees in unit involved in impasse, (3) 60 days after fact-finding recommendation made public, (4) after 10-day notice of intent, (5) in compliance with requirements for public health and safety set by PERB</p> <p>"Essential" employees identified by PERB may not strike</p>	<p>Written contract, 2-year minimum</p> <p>Reasonable effort must be made to conclude prior to legislative appropriation of cost items. Expiration date of contracts must be June 30 of odd years</p>	<p>Terms of agreement within legal scope of bargaining prevail over existing rules and regulations of employer</p> <p>Act takes precedence over all conflicting statutes; preempts all contrary local regulation</p> <p>Cost items are subject to appropriation by legislative body. If rejected, negotiation required</p> <p>For negotiating purposes, employer is governor or not fewer than 3 representatives plus no more than 2 education board members (K-12) or regents of University of Hawaii (PS)</p>

<p>At request of either party, mediation, fact-finding, non-binding recommendations. Procedures may be bargained</p> <p>State superintendent of public instruction must appoint fact-finder if parties have been through mediation and have been at impasse for 30 days</p>	<p>No specific provisions</p>	<p>No specific provisions</p>	<p>No specific provisions</p>	<p>A meet and confer law</p> <p>Powers, duties and responsibilities of legislature, state board of education, local boards are protected</p> <p>State has Firefighters Bargaining Act: Ch.139, L1970</p>
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<p>Mediation and fact-finding by EERB, at request of either party or initiated by EERB in compliance with timetable</p>	<p>May be bargained. May include final and binding arbitration. Changes in contract as result of arbitration are prohibited. Complaints to and hearing by EERB</p>	<p>Standard provisions for unfair practices</p> <p>Strikes prohibited; injunctive relief</p> <p>No make-up time, salary loss, loss of dues checkoff for violation</p>	<p>Written contract</p> <p>If agreement is not reached 14 days before budget submission date, tentative individual contracts authorized; bargaining to continue</p>	<p>Strike days need not be made up</p> <p>Contracts may not include provisions in conflict with rights or benefits established by federal or state law</p> <p>Contracts providing for deficit financing are void to such extent</p> <p>Public Employee Labor Relations Act: Ch. 4, IC 22-6 (HB 1298, 1975) ruled unconstitutional by the Indiana State Supreme Court</p>
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State, Reference, Identification	Coverage, Exclusions	Bargaining Unit, Union Security	Middle-Management Provisions	Administration	Scope of Bargaining, Management Rights
IOWA Public Employment Relations Act Ch 20, § 1-26 and 28 CB K-12 P-C PS Omnibus Enacted: 1974 Last Amended: 1978	Public employees K-12 and post-secondary levels, professional and classified Excluded: administrators, supervisors, superintendents, principals, elective officials, certain students	Professional and nonprofessional employees, separate or single unit by agreement. State merit system employees bargain salaries and fringe benefits on statewide basis with governor or designee Dues checkoff permitted	Administrators, supervisors, superintendents, principals may not bargain	Public Employment Relations Board (PERB): 3 members appointed by governor with senate confirmation	Wages, hours, vacations, insurance, holidays, leaves of absence, shift differentials, overtime compensation, supplemental pay, seniority, transfer procedures, job classifications, health and safety, evaluation, staff reduction, inservice training, mutually agreed-upon matters; also dues checkoff terms, grievance procedures, Retirement systems excluded Extensive management rights listed. Merit systems protected
KANSAS Revised Statutes: § 72-5413 through 72-5424 CB K-12 P CC Local Level Enacted: 1970 Last Amended: 1980	All professional employees performing educational duties. K-12, area vocational-technical, and community college levels Excluded: administrators as defined in act	Community of interest of certificated employees. All classroom teachers must be in unit Dues checkoff permitted	Administrators, as defined in act, may not bargain	Secretary of Human Resources (SHR) or designee (currently Labor Relations Section chief)	Terms and conditions of professional service, defined as salaries and wages, hours and amounts of work, vacation, holiday, sick and other leave, number of holidays, retirement, insurance benefits, wearing apparel, overtime pay, jury duty, grievance procedure, discipline, procedure, resignations, termination of contracts, supplemental contract pay, extended and sabbatical leave, nonrenewal of contracts, reemployment of professional employees, terms and form of individual contracts, probationary periods, evaluation procedures, certain union privileges, and other mutually agreed-upon matters Legal rights of management protected. School year is not bargainable
KANSAS Public Employee Law: Revised Statutes: § 75-4321 through 75-4337 CB K-12 C PS P-C Omnibus Enacted: 1971 Last Amended: 1977	Public employees — any person employed by the state, state agencies, governmental subdivision. K-12 classified; post-secondary professional and classified Excluded: supervisors, professional school district personnel, elected, management, confidential	Appropriate units; separate for professional and non-professional employees unless combined by mutual consent No union security provisions in law, but dues checkoff permitted	Management personnel may not bargain. Supervisors as defined in act may be members of employee organization, but are not entitled to bargaining representation. Definition may be changed by mutual consent	Public Employee Relations Board (PERB): 5 members: 1 employer, 1 employee, 3 at large public appointed by governor with senate confirmation Secretary of Human Resources (SHR)	Conditions of employment defined as salaries, wages, hours of work, vacation, sick and injury leave, number of holidays, retirement benefits, insurance benefits, prepaid legal service benefits, wearing apparel, premium pay for overtime, shift differential pay, jury duty and grievance procedures Legal rights of management protected. Civil service, merit system protected

Bargaining Impasse Procedures	Grievance Procedures	Unfair Practices, Strikes and Penalties	Final Form, Deadline Dates	Comments
<p>Must be bargained. Mediation, fact-finding, binding arbitration (at request of either party) available through PERB if parties cannot agree on their own impasse procedures. Issue-by-issue arbitration based on final offers and/or fact-finding recommendations</p> <p>Bargaining may not take place during strike</p>	<p>Must be bargained. May include binding arbitration invoked only with approval of employee or union</p>	<p>Standard provisions for unfair practices</p> <p>Strikes and lockouts prohibited; injunctive relief</p> <p>Salary loss, fines, dismissal, loss of organization recognition for violation of injunction against strike</p>	<p>Written agreement, must be made public. For state employees, contracts must start July 1, odd years, and run for 2 years</p> <p>Impasse procedures must begin 120 days before budget submission date</p> <p>Negotiations and impasse procedures must be completed by budget submission date of public employer; by March 15 for state</p>	<p>Contracts and arbitration decisions are not to be inconsistent with statutory limitations on public employer funds</p> <p>If provisions of act jeopardize federal funds to state, they are inoperative</p> <p>State has provision for arbitration for firemen: sections 90.15 through 90.27</p>
<p>Impasse declaration by June 1 at request of either or both parties to SHR initiates procedures which include mediation, fact-finding with non-binding recommendations based on last best offers, item-by-item or independent factfinder recommendation. Board of education has right to final decision.</p>	<p>Must be bargained; may include binding arbitration</p>	<p>Standard provisions for unfair practices</p> <p>Strikes and lockouts prohibited; listed as unfair practices</p> <p>No penalties specified</p>	<p>Final form not specified, but may be made part of individual employment contracts; and may not exceed 2 years. Binding when ratified by both</p> <p>Unilateral contracts may not be issued before bargaining process is exhausted.</p>	<p>Constitutional and statutory provisions may not be bargained</p>
<p>May be bargained. If not bargained, PERB may request mediation, fact-finding services from SHR. Final decision by governing board</p>	<p>Must be bargained. May include advisory or final and binding arbitration. If not bargained, PERB will provide such mechanics</p>	<p>Standard provisions for unfair practices</p> <p>Strikes prohibited, listed as unfair practice.</p> <p>No penalties specified, but PERB may determine. Injunctive relief, court review</p>	<p>Written memorandum of understanding not to exceed 3 years</p> <p>In time for budget-making process</p>	<p>Governing body may elect to being public employer under provisions of act, after which provisions are binding. Governmental subdivisions with reasonably equivalent procedures are exempt.</p> <p>Provisions in federal, state or local law may not be bargained. Bargained provisions requiring new legislation or finance approval are not effective until appropriate legislative body or finance council takes necessary action. Fiscal impact statements must accompany bargained agreements</p>

State, Reference, Identification	Coverage, Exclusions	Bargaining Unit, Union Security	Middle-Management Provisions	Administration	Scope of Bargaining, Management Rights
KENTUCKY	State has Firefighters Collective Bargaining Act; Kentucky Revised Statutes, Ch. 345 (cities over 300,000 or by petition); county policemen's collective bargaining (over 300,000); KRS Ch. 78.				
	State supreme court ruled in 1978 that public employers are not required to negotiate but may choose to do so.				
	A 1975 attorney general's opinion states governor is not authorized to grant bargaining rights to teachers' unions				
LOUISIANA	State has no public employee collective bargaining legislation, but dues checkoff authorization exists				
MAINE University Employees Bargaining Rights: Tit. 26, Ch. 12; § 1021 - 1035	Regular employees of University of Maine, Maritime Academy, vocational-technical institutes and state schools for practical nursing	Single, systemwide university units for: faculty, administrative and professional; clerical, office, laboratory and technical; service/maintenance; supervisory classified; and police.	Supervisors not prohibited from bargaining by the act	Maine Labor Relations Board (MLRB): 3 members, 6 alternates appointed by governor (1 employer, 1 employee, 1 public); review by joint standing committee on labor and confirmed by legislature	Wages, hours, working conditions, contract grievance arbitration. Federally assisted positions protected by hearing examiner's determination
CB PS P-C CC Postsecondary Enacted: 1975 Last Amended: 1979	Excluded: appointed pursuant to statute, vice-presidents, deans, directors, members of immediate staff of chancellor or superintendent, confidential, less than 6 months employment	Cooperative Extension Service employees in appropriate units. Maritime Academy to have units of: faculty, administrative and classified. Voc-tech and practical nursing institutions to have systemwide units of faculty and administrative. Additional categories may be added by petition to MLRB.		Maine Board of Arbitration and Conciliation (MBAC) and Panel of Mediators under MLRB "umbrella"	
MAINE Public Employee Law: Revised Statutes: Tit. 26, § 961 through 974	Any municipal or political subdivision employee. K-12 level, professional and classified	Employer can accept the unit, or Executive Director of MLRB determines unit if disputed. Professionals may vote to be included in nonprofessional unit. Teachers may be in unit with other certificated employees	Principals, assistant principals, supervisory teachers may bargain in teacher unit that includes teachers and nurses in supervisory positions	Maine Labor Relations Board (MLRB): 3 members, 6 alternates appointed by governor (1 employer, 1 employee, 1 public); reviewed by joint standing committee on labor and confirmed by legislature	Must bargain wages, hours, working conditions and contract grievance arbitration. Must meet and confer only on education policies
CB K-12 P-C Local Level Enacted: 1969 Last Amended: 1979	Excluded: elected, appointed, confidential, superintendent, assistant superintendent, 6-month probationary, temporary, seasonal or on-call employee	Union security may be bargained, but excludes involuntary payment of equivalent of union dues; employee cannot be required to join union		Main Board of Arbitration and Conciliation (MBAC) and Panel of Mediators are under MLRB "umbrella"	Municipal merit system, civil service system protected re: competitive service. Collective bargaining agreement controls re: demotion, lay-offs, discharge, discipline

Bargaining Impasse Procedures	Grievance Procedures	Unfair Practices, Strikes and Penalties	Final Form, Deadline Dates	Comments
<p>Mediation at request of either party or by MLRB initiative. Parties may jointly request fact-finding from MLRB (provided by MBAC); or either party may request fact-finding panel to be appointed by Executive Director. MLRB may waive fact-finding. At request of one or both parties, arbitration from MLRB. Advisory arbitration on salaries, pensions and insurance. Binding arbitration on other items. Court review. (Parties can also mutually use Federal Mediation and Conciliation Service or American Arbitration Association for mediation, fact-finding and arbitration)</p>	<p>Must be bargained; may include binding arbitration on interpretation of agreement only. Uniform Arbitration Act applies. Court review</p>	<p>Standard provisions for unfair practices Strikes prohibited, listed as unfair practice Injunctive relief. Court review</p>	<p>Written contract not to exceed 2 years. No deadline specified</p>	<p>Cost items (salaries, pensions, insurance) in bargained agreements for vocational-technical or state nursing schools must be submitted for governor's operating budget; if legislature rejects, re-negotiation prescribed Students may meet and confer with both parties prior to negotiations; during bargaining students may meet and confer with university bargaining team at intervals If provisions of act jeopardize federal funds, provisions inoperative</p>
<p>May be bargained. Mediation at request of either party or on MLRB initiative. Fact-finding by mutual consent or parties by MLRB-appointed fact-finder, MBAC, Federal Mediation and Conciliation Service or American Arbitration Association (AAA). Fact-finding may be waived by MLRB. Mutual agreement on arbitration procedures or statutory provisions requiring each party to appoint 1 arbitrator, both to agree on 1 neutral; if no agreement, matter resolved using AAA procedures. Advisory arbitration on salaries, pensions, insurance; binding arbitration on other items. Court review</p>	<p>Must be bargained. Mediation, fact-finding. Binding arbitration permitted as to meaning and application of specific terms of agreement. MBAC available at no charge if parties make joint request. Uniform Arbitration Act applies. Court review</p>	<p>Standard provisions for unfair practices Strikes prohibited, listed as unfair practice; injunctive relief</p>	<p>Written contract not to exceed 3 years No deadline specified</p>	<p>State also has bargaining law for employees of executive department; MRS. Tit. 28, § 979</p>

State, Reference, Identification	Coverage, Exclusions	Bargaining Unit, Union Security	Middle-Management Provisions	Administration	Scope of Bargaining, Management Rights
MARYLAND Annotated Code: Art 77, § 160 CB K-12 P Local Level Enacted: 1969 Last Amended: 1978	Certificated employees of public schools and persons of equivalent status in Baltimore City. K-12 professionals including substitute teachers in Montgomery County only Excluded: superintendents and those designated as employer negotiators	Unit determined by employer after negotiations and other requirements met; no more than 2 units per employer Dues checkoff permitted	Principals, assistant principals and supervisors may bargain in separate or combined units. Principals may be placed on management bargaining team	Local boards and state board of education	Salaries, wages, hours and other working conditions. Final determination of scope by local board
MARYLAND Annotated Code: Art 77, § 160a CB K-12 C Local Level Enacted: 1974 Last Amended: 1975	Noncertificated employees of public schools K-12 classified Excluded: management, confidential, those designated as employer negotiators	Unit determined by employer after negotiations and other requirements met; no more than 3 units per employer Dues checkoff permitted	Supervisors may bargain in separate units	Local boards and state board of education	Salaries, wages, hours and other working conditions
MASSACHUSETTS General Laws Annotated: State-County-Municipal Employee Law: Ch 150-E, § 1-15 CB K-12 P-C PS Omnibus Enacted: 1973 Last Amended: 1979	Public employers. K-12, postsecondary professional and classified personnel Excluded: elected, appointed, confidential, managerial, certain others	Appropriate units, separate units for professionals and nonprofessionals unless professionals vote to combine Dues checkoff, conditional service fees required as part of bargained agreement	Supervisors who are not defined as management are not excluded specifically	Labor Relations Commission (LRC): 3 members appointed by governor Board of Conciliation and Arbitration (BCA)	Wages, hours, standards of productivity and performance, and any other terms and conditions of employment
MICHIGAN Statutes Annotated: Public Employment Relations Act: § 423 201 through 423 216 CB K-12 P-C PS Omnibus Enacted: 1947 Last Amended: 1978	Employees of state and its political subdivisions. K-12 professional and classified, postsecondary professional and classified	Determination of appropriate unit by MERC Service fees permitted	No specific provisions. Supervisors do bargain as a result of court decision	Within Department of Labor, Michigan Employment Relations Commission (MERC): 3 members appointed by governor with senate confirmation	Wages, hours and other terms and conditions of employment

Bargaining Impasse Procedures	Grievance Procedures	Unfair Practices, Strikes and Penalties	Final Form, Deadline Dates	Comments
At request of either party, state superintendent determines impasse exists. State board of education assistance at request of both parties; or mediation panel, nonbinding recommendations	May be bargained. May include binding arbitration	Standard provisions for unfair practices Strikes prohibited Loss of dues check-off and unit recognition for 2 years for violation	Written agreement No deadline specified	
Mediation by state board of education by mutual consent; or a special panel. Nonbinding recommendations	Binding arbitration of grievances may be bargained	Standard provisions for unfair practices Strikes prohibited Loss of dues check-off for 1 year and exclusivity rights for 2 years for violation	Written agreement No deadline specified	Baltimore City and 3 counties have separate procedures for classified personnel. This act covers 12 of 23 counties If funds not available for a negotiated agreement, the parties must renegotiate. Public school employer has final determination
BCA mediation, fact-finding, binding recommendations if mutually agreed-upon by parties. Parties may choose to select fact-finder; may choose to waive fact-finding in favor of arbitration. Decisions as a result of mutually agreed-upon arbitration are binding	May be bargained. May include binding arbitration. Binding arbitration may be ordered by LRC if contract does not provide for it. Court review	Standard provisions for unfair practices Strikes prohibited; injunctive relief Salary loss, no makeup, discipline and discharge for violation in event of strike	Written contract not to exceed 3 years No deadline specified	In certain cases, bargained cost items must be submitted to appropriate legislative body or governor for approval; if rejected, must be renegotiated In certain cases, bargained agreements prevail over local ordinances, bylaws, rules or regulations State has binding interest arbitration for firemen and policemen: Secs. 4, 4A of Ch. 1078, L. 1973
Mediation and fact-finding; nonbinding recommendations via MERC	May be bargained. Mediation via MERC	Standard provisions for unfair practices Strikes prohibited Discipline, dismissal for violation. Court review	Written contract if requested by either party No deadline specified	State has binding arbitration act for firemen and policemen: § 423.231 through 423.246

State, Reference, Identification	Coverage, Exclusions	Bargaining Unit, Union Security	Middle-Management Provisions	Administration	Scope of Bargaining, Management Rights
MINNESOTA Statutes Annotated, Public Employment Labor Relations Act. § 179.61 through 179.77 CB K-12 P-C CC PS Omnibus Enacted: 1971 Last Amended: 1980	Public employees. Includes K-12 and postsecondary professional and classified Excluded: elected election officers, national guard, emergency personnel, certain part-time temporary, seasonal, charitable hospital, student work-study	Appropriate units are administratively determined. Joint unit certification permitted. 16 statewide units for most state and university employees including: 1) state university unit; 2) community college unit; 3) K-12 institutional teachers 12 statewide units for University of Minnesota: (1) law enforcement; (2) craft and trades; (3) service, maintenance and labor; (4) non-professional health care and service; (5) nursing; (6) clerical and office; (7) technical; (8) Twin Cities instruction; (9) out-state instruction; (10) graduate assistant; (11) noninstruction professional; (12) supervisory. Certain employees may separate from units, opt for meet and confer rights only Dues checkoff, service fees to 85% of dues permitted	Supervisors, defined in act and/or determined by PERB, may bargain in separate units as "essential employees;" "supervisory, confidential, principals, assistant principals may form own organizations," which may not affiliate with "non-supervisors" Management may not bargain	Bureau of Mediation Services (BMS) Public Employment Relations Board (PERB): 5 members; 1 at large, 2 employer, 2 employee appointed by governor	Terms and conditions of employment; defined as hours, compensation, fringe benefits (retirement excluded), personnel policies affecting working conditions, grievance procedures. Teachers as professional employees must meet and confer on "services being provided to the public" that are not specified above Management not required to negotiate inherent policy
MISSISSIPPI State has no public employee collective bargaining legislation					
MISSOURI Vernon's Annotated Statutes; Public Employee Law. § 105.500 through 105.540 MC K-12 C PS Omnibus Enacted: 1967 Last Amended: 1969	Employees of state and its political subdivisions. K-12 and postsecondary classified personnel Excluded: police, sheriffs, highway patrol, national guard, K-12 and postsecondary teachers	Appropriate unit; community of interest. State Board of Mediation to resolve unit disputes No union security	No specific provisions	Public employer	Proposals relative to salaries and other conditions of employment
MONTANA Public Employee Law. § 39-31-101 through 39-31-409 CB K-12 P-C PS CC Omnibus Enacted: 1973 Last Amended: 1979	Public employees. K-12, postsecondary and community college personnel at professional and classified levels Excluded: elected, appointed, supervisory management, school district clerks, school administrators, nurses, engineers.	BPA decides unit Dues checkoff, service fees permitted	Supervisory and management personnel may not bargain	Under Department of Labor and Industry, Board of Personnel Appeals (BPA): 5 members; 2 management, 2 labor, 1 public appointed by governor	Wages, hours, fringe benefits, other conditions of employment Extensive management rights listed

Bargaining Impasse Procedures	Grievance Procedures	Unfair Practices, Strikes and Penalties	Final Form, Deadline Dates	Comments
Mediation through BMS. Binding arbitration by mutual consent of both parties, with arbitrator lists supplied by PERB	Must be included in contract; must include compulsory binding arbitration. PERB available Independent review	Extensive provisions for unfair practices Strikes prohibited for essential employees. K-12 and postsecondary personnel may strike if agreement has expired, impasse is declared, mediation procedures have been exhausted, binding arbitration request is rejected, written notice is served Managenal, principals, confidential and supervisory employees are "essential" and may not strike Pay loss, dismissal, probation, loss of unit recognition and dues checkoff for violation. Injunctive relief, damages. Court review	Written contract must be for 2 years for school boards beginning on July 1 of odd years, and may not exceed 3 years for others Arbitration awards are incorporated into contract	Bargained contracts must be consistent with statutes, rules, regulations, charters, ordinances, resolutions. If contract requires new statutes, etc., employer must try to secure such State-level bargained contracts for wages and fringes are subject to legislature's acceptance or rejection Areawide negotiations encouraged Legislative Commission on Employee Relations recommends legislation
No specific provisions	No specific provisions	Standard provisions for unfair practices Strikes prohibited No penalties specified	Written agreement No deadline specified	Teachers and boards of education may consult and negotiate nonbinding (on school boards) agreements: state supreme court ruling, February 1974. Teacher organization not defined as labor organization Negotiated agreements of classified employees must be approved by appropriate legislative, governing or administrative body A meet and confer law
Mediation at request of both parties. Fact-finding at request of either party or initiated by BPA. Binding arbitration by agreement of both parties	May be bargained. May include final and binding arbitration	Standard provisions for unfair practices No specific provisions for strikes. Supreme court in November 1974 ruled that public employee strikes are not prohibited.	Written contract No deadline specified	Postsecondary students may meet and confer with both parties prior to negotiations, observe negotiations, caucus with management, advise management prior to written contract; confidentiality required Act does not limit appropriations authority of legislature, governing body, political subdivision State has separate nurse-bargaining law (Ch. 320, L. 1969) and arbitration act for firefighters (Secs. 1-6, HB 302 L 1979); plus grievance procedures for public and highway employees

State, Reference, Identification	Coverage, Exclusions	Bargaining Unit, Union Security	Middle-Management Provisions	Administration	Scope of Bargaining, Management Rights
NEBRASKA Revised Statutes: Public and Utility Employees Act: § 48-801 through 48-838 CB PS: P-C K-12 (selected) Omnibus Enacted: 1947 Last Amended: 1979	Employees of state and its political subdivisions. Includes postsecondary professional and classified, K-12 professional and classified in class I, II and VI school districts Excluded: national guard, state militia, municipal corporation	Appropriate units determined by CIR No union security	No specific provisions	Commission of Industrial Relations (CIR): 5 judges appointed by governor and confirmed by legislature	Terms and conditions of employment, including wages and hours and grievance procedures
NEBRASKA Revised Statutes: Teachers Professional Negotiations Act: § 79-1287 through 79-1295 MC K-12 P Local Level Enacted: 1967	Certificated employees in Class III, IV, V school districts. K-12 level	Unit not specified No union security	No specific provisions	Local school board and state department of education Commission on Industrial Relations (CIR): 5 judges appointed by governor, confirmed by legislature	Employment relations and mutually agreed-upon matters
NEVADA Revised Statutes: Local Government Employee Management Relations Act: § 288-010 through § 288-280 CB K-12 P-C Local Level Enacted: 1969 Last Amended: 1979	Employees of political subdivisions of state or any public or quasi-public corporation (local). Includes K-12 professional and classified Excluded: top management, confidential	Appropriate units; community of interest. Separate units for administrators, supervisors Dues checkoff permitted	Principals, assistant principals, other administrators below superintendent (including associate assistant), must bargain in separate unit; may combine with teachers if district has fewer than 5 principals. Department heads, administrative or supervisory employees may not be in same unit as supervised employees	Local Government Employee-Management Relations Board (LGEMRB): 3 members appointed by governor, 6-member advisory committee; 3 employer, 3 employee appointed by governor	Wages, hours and other terms and conditions of employment. Mandatory scope limited to: (1) salary/wages, (2) sick leave, (3) vacations, (4) holidays, (5) other leaves, (6) insurance, (7) hours, (8) days, (9) discharge and discipline, (10) recognition clause, (11) employee classification, (12) dues checkoff, (13) protection from discrimination, (14) no-strike provisions, (15) grievance/arbitration procedures, (16) general savings clause, (17) duration of agreements, (18) safety, (19) teacher preparation time, (20) reduction in work force Extensive management rights which may be discussed informally, but not negotiated

Bargaining Impasse Procedures	Grievance Procedures	Unfair Practices, Strikes and Penalties	Final Form, Deadline Dates	Comments
Mediation, fact-finding. Binding arbitration by CIR	Must be bargained. Arbitration available from CIR	No specific provisions for unfair practices Strokes and lockouts are prohibited Misdemeanor or penalty	Written agreement not to exceed 3 years No deadline date specified.	State employee agreements must coincide with biennial budget period, must be approved by legislature
Fact-finding board and nonbinding recommendations. CIR assumes jurisdiction after procedures of this act have been exhausted	No specific provisions. CIR available	Strokes prohibited by "any person" in Public and Utility Employees Bargaining Act: sec. 48-821	Written agreement No deadline specified	A meet and confer law All final decisions of the CIR are appealable to the Supreme Court on an arbitrary/capricious standard By a recent Supreme Court decision the CIR has no power to hear or decide issues within an existing contract; they must go to the District Courts — i.e., breach of contract disputes
Must be discussed. Mediation; labor commissioner may appoint. Fact-finding; American Arbitration Association or Federal Mediation and Conciliation Service may assist. Final and binding fact-finding recommendations by agreement of both parties, or on order of governor by June 1 or within 10 days of legislature's adjournment. Alternate procedures may be used by mutual consent of parties	Must be bargained if related to interpretation of agreement. Appeals and disputes to LGEMRB. Court review available	Standard provisions for unfair practices Strokes prohibited; no-strike pledge required for recognition Fines, imprisonment, suspension, demotion, dismissal, salary loss for violation; injunctive relief	Written contract at request of either party	State supreme court ruled in December 1974 that district must negotiate (1) classroom preparation time, (2) class size, (3) professional improvement, (4) student discipline, (5) school calendar, (6) instruction supplies, (7) teacher performance and load, (8) differentiated staffing If negotiation has begun, teachers must notify school board of intention to accept reemployment by April 10: Ch. 13, L. 1971 Contracts may be suspended by employer for duration of emergency

State, Reference, Identification	Coverage, Exclusions	Bargaining Unit, Union Security	Middle-Management Provisions	Administration	Scope of Bargaining, Management Rights
NEW HAMPSHIRE State Employee Bargaining Rights: Ch. 273-A CB K-12 PS P-C Omnibus Enacted: 1975 Last Amended: 1979	Employees of state and its political subdivisions and quasi-public corporations. K-12 and postsecondary professional and classified Excluded: elected, appointed, confidential, probationary, temporary, seasonal	Community of interest, determined by PELRB. Units must represent at least 10 employees. Separate units for professional and non-professional employees may be combined by vote of both units. Supervisors may not be in unit with employees supervised. If employer approves, units may combine for bargaining No union security	Supervisors (not defined) may bargain	Public Employee Labor Relations Board (PELRB): 5 members appointed by governor and council; 2 labor, 2 management, 1 public; 3 alternates	Wages, hours and other conditions of employment except managerial policy or items covered by statute or regulation Management rights defined; merit system protected
NEW JERSEY Statutes Annotated: Employer-Employee Relations Act: § 34:13A-1 through 34:13A-13 CB K-12 PS P-C CC Omnibus Enacted: 1968 Last Amended: 1980	Employees of state and its political subdivisions. K-12 and postsecondary levels, professional and classified Excluded: elected, board and commission members, managerial, confidential	Appropriate units. Community of interest. Separate units for supervisors and nonsupervisors. Separate professional and non-professional units unless professionals vote to combine Agency shop, service fees to 85% permitted	In school districts, managerial exclusions are limited to superintendents, other chief administrators, assistant superintendents. Other supervisors may not be represented for bargaining but may be members of bargaining unit if an established practice	Within Division of Public Employment Relations is Public Employment Relations Commission (PERC): 7 members; 2 employer, 2 employee, 3 public appointed by governor with senate confirmation Special appeal board for non-member challenge of representation (service) fee: 3 members; 1 employer, 1 employee, 1 public appointed by governor with senate confirmation	Grievance procedures, terms and conditions of employment and service fees
NEW MEXICO	State has no public employee bargaining legislation, but state personnel board has issued labor-management relations regulations for state classified employees				
NEW YORK McKinney's Consolidated Laws Annotated: Taylor Act, Secs. 200-214, Civil Service Law CB K-12 PS P-C Omnibus Enacted: 1967 Last Amended: 1979	Employees of state and its political subdivisions. K-12 and postsecondary levels, professional and classified Excluded: appointed, militia, managerial, confidential	Appropriate units. Community of interest Dues checkoff, service fees permitted. Agency shop fees required for state employees.	Principals and other school administrators who do not formulate policy or have significant roles in employee relations may bargain	Public Employment Relations Board (PERB): 3 members, appointed by governor with senate confirmation	Wages, hours and other terms and conditions of employment, defined as: salaries/wages, hours, agency shop fee and other terms and conditions of employment including grievance procedures. State employees may not bargain retirement benefits
NORTH CAROLINA General Statutes	State has no public employee collective bargaining legislation. NCGS: 4 95-85 through 95-88 barring public employee membership in national labor organizations was declared unconstitutional by U.S. District Court in 1970; section forbidding state contracts with unions was upheld				

Bargaining Impasse Procedures	Grievance Procedures	Unfair Practices, Strikes and Penalties	Final Form, Deadline Dates	Comments
Mediation; fact-finding with nonbinding recommendations; renegotiation. Alternate lawful procedures may be bargained. PELRB available	Must be bargained	Standard provisions for unfair practices Strikes and lockouts prohibited	Written contract By budget submission date—for school districts, February 1	Cost items must be submitted to appropriate legislative body for approval; if rejected or modified, renegotiation permitted
Mediation, fact-finding through PERC by Division of Public Employment Relations. Arbitration by mutual consent	Must be bargained; may include binding arbitration	Standard provisions for unfair practices No specific provisions for public employee strikes	Written contracts	State also has fire and police arbitration act: Ch. 85, L. 1977 Private employees may strike: § 34:13A-8. State supreme court rejected argument that legislative history implies strike rights for public employees, in 1968 Provisions of act may not annul or modify statutes
May be bargained; may include binding arbitration, PERB available; procedures include mediation, fact-finding with recommendations submitted to appropriate legislative body for necessary action to reach agreement, or arbitration at request of both parties or on PERB initiative	Must be bargained	Standard provisions for unfair practices Strikes prohibited. No-strike pledge required for recognition 2 for 1 salary loss, dismissal, dues checkoff loss, fines for violation. Injunctive relief	Written contract not to exceed 3 years No deadline date specified	Ch. 158, L. 1970 states legislative intent that "terms and conditions of employment" does not include upgrading of civil service positions State appeals court decisions, July 1974, states that class size is not a "term and condition" of employment Bargained agreements requiring legislative action to permit implementation or additional funds must be approved by appropriate legislative body Local governments may set up "mini-PERBs" to handle own "substantially equivalent" procedures, but with no jurisdiction over unfair practice charges Separate provisions are established for N.Y.C. and NY-NJ Port Authority

State, Reference, Identification	Coverage, Exclusions	Bargaining Unit, Union Security	Middle-Management Provisions	Administration	Scope of Bargaining, Management Rights
NORTH DAKOTA Century Code: Teachers Representation and Negotiations Act: § 15-38.1-01 through 15-38.1-15 CB K-12 P Local Level Enacted: 1969	All certificated classroom teachers and administrators employed by a public school system, K-12 level	Separate appropriate units for teachers and administrators No union security	Administrators, defined as "all public school employees employed primarily for administration, may bargain in separate units"	Education Fact-Finding Commission (EFFC): 3 members: 1 appointed by state education superintendent, 1 by governor, 1 by attorney general	Terms and conditions of employment; employer-employee relations, salaries, hours, other terms and conditions of employment, grievance procedures Extensive management rights listed
OHIO	State has no public employee collective bargaining legislation. Public employee strikes are prohibited by Ferguson Act: § 4117.01 through 4117.05. Strikers are automatically fired; may be re-employed conditionally				
OKLAHOMA Statutes Annotated: § 509.1 through 509.10 CB K-12 P-C Local Level Enacted: 1971 Last Amended: 1978	All employees in district, K-12 level, professional and classified	Separate units for certificated teachers and non-professionals Dues checkoff permitted	Professional educators defined; principals and assistant principals may bargain as separate unit in districts over 35,000 average daily attendance	Local boards of education	Terms and conditions of employment; items affecting the performance of professional services
OREGON Revised Statutes: Public Employee Law: § 243.650 through 243.782, and ORS 662.405 through 662.455 CB K-12 P-C PS CC Omnibus Enacted: 1963 Last Amended: 1979	All public employees, K-12 and postsecondary levels, professional and classified Excluded: elected, board/commission appointees, confidential, supervisory	No specific state provisions for composition of units. In practice, NLRB precedent used by ERB Dues checkoff, service fees, union shop (with religious exemption) permitted	Supervisors excluded from this law, but no other statutory provision prohibits supervisor bargaining	Employment Relations Board (ERB): 3 members appointed by governor State Conciliation Service (SCS) under ERB	Employment relations, including matters concerning direct or indirect monetary benefits, hours, vacations, sick leave, grievance procedures and other conditions of employment

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Bargaining Impasse Procedures	Grievance Procedures	Unfair Practices, Strikes and Penalties	Final Form, Deadline Dates	Comments
Mediation, fact-finding with non-binding recommendations via EFFC. Parties may agree to own procedures	Must be bargained; may include binding arbitration	Good faith negotiations required, right to organize and negotiate protected. No other unfair practices listed Strikes prohibited Salary loss for violation	Written contract if requested by either party No deadline date specified	State also has public employee law dealing with mediation of disputes: NDCC: § 31-11-01 through 31-11-05 North Dakota Supreme court ruled on March 13, 1980 that mandatory scope is salary, hours, formulation of agreement, binding arbitration and interpretation of existing agreement. Permissive items include: (1) class size, (2) procedures for reduction in force, (3) procedures for establishing curriculum with teacher input, (4) teacher evaluation policies, (5) teacher transfer procedures, (6) schedule for work year, (7) procedures for leave, (8) grievance procedures including binding arbitration and binding arbitration at impasse
Must be bargained; final impasse procedure is 3-member fact-finding process	No specific provisions	Discrimination against employees exercising rights is unfair practice. Good faith negotiation required. No other provision Strikes prohibited Salary loss, loss of unit recognition for violation	No specific provisions for final form Completed agreement within 60 days of first meeting	State has fireman, policeman and municipal employee collective bargaining: OSA: § 548.1 through 548.14 Agreements may not conflict with Act.
May be bargained; may include final and binding arbitration. Mandatory mediation by SCS through ERB. Fact-finding at request of parties or initiation of ERB. Arbitration for employees who may not strike	Must be bargained; may include final and binding arbitration	Standard provisions for unfair practices including violation of contract, refusal to accept arbitration award, by-passing representative Strikes by members of recognized units are permitted if contract does not include binding arbitration of disputes; if not endangering public well-being; and after exhaustion of specific procedures. Strikes endangering public well-being may be enjoined; matter must be submitted to binding arbitration. Policemen, firemen, guards may not strike	Written contract if requested by either party. No deadline dates. Must coincide with budget-making date	"Joint" bargaining required "whenever two or more organizations are certified to represent state employees in like classifications" if subject of bargaining more than 1 agency, institution, etc. of state Postsecondary students may meet and confer with both parties; attend and observe all bargaining sessions; have access to documents; comment in good faith; confidentiality required Agreements declared invalid by court, by ERB or by inability to execute agreement may be renegotiated at request of either party

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State, Reference, Identification	Coverage, Exclusions	Bargaining Unit, Union Security	Middle-Management Provisions	Administration	Scope of Bargaining, Management Rights
PENNSYLVANIA Purdon's Statutes Annotated: Public Employee Relations Act: Tit. 43, § 1101.101 through 1101.2301 CB K-12 P-C PS Omnibus Enacted: 1970 Last Amended: 1976	Employees of state and its political subdivisions plus entities receiving public funds, K-12 and postsecondary, professional and classified Excluded: elected, appointed, managerial, confidential, religious organization, police, fire	Appropriate units; community of interest. Separate units for professionals and nonprofessionals; may be combined by vote of professionals. Separate units for first-level supervisors Maintenance of membership permitted	Management, defined as all employees above the first level of supervision, may not bargain. Separate units for first-level supervisors. Employer is required to meet and discuss only	Under Department of Labor and Industry, Pennsylvania Labor Relations Board (PLRB): 3 members appointed by governor with senate confirmation Pennsylvania Bureau of Mediation (PBM) under Department of Labor and Industry	Wages, hours and other terms and conditions of employment Extensive management rights listed. Employer must "meet and discuss" on "policy matters" affecting scope
RHODE ISLAND General Laws: School Teachers Arbitration Act: § 28-9-3-1 through 28-9-3-16 CB K-12 P PS Local Level Enacted: 1968 Last Amended: 1975	Certificated teachers in any public school system of state. K-12 professionals Excluded: superintendents, assistant superintendents, principals, assistant principals	All covered employees Service fees required	Superintendents, assistant superintendents, principals, assistant principals may not bargain	State Labor Relations Board (SLRB): 5 members; 2 management, 2 labor, 1 public appointed by governor State department of education	Hours, salary, working conditions and all other terms and conditions of professional employment
RHODE ISLAND General Laws: State Employees: § 36-11-1 through 36-11-12 CB PS P-C State Level Enacted: 1958 Last Amended: 1980	All state employees Postsecondary level: professional and classified Excluded: casual and seasonal employees	All covered employees Service fees mandatory	No specific provisions	State Labor Relations Board (SLRB): 5 members; 2 management, 2 labor, 1 public appointed by governor	Wages, hours, working conditions
RHODE ISLAND General Laws: Municipal Employees Arbitration Act: § 28-9-4-1 through 28-9-4-19 CB K-12 C PS Local Level Enacted: 1967 Last Amended: 1970	Employees of any political subdivision of the state. K-12 classified Excluded: elected, administrative, appointed, supervisors, certain part-time, those covered by other laws (teachers, firemen, policemen)	Appropriate units. All covered employees No union security	Administrative officials and supervisors may not bargain	State Labor Relations Board (SLRB): 5 members; 2 management, 2 labor, 1 public appointed by governor	Hours, salary, working conditions, all other terms and conditions of employment
SOUTH CAROLINA	State has no public employee collective bargaining legislation. State Uniform Arbitration Act enacted: § 464 of 1978				

Bargaining Impasses Procedures	Grievance Procedures	Unfair Practices, Strikes and Penalties	Final Form, Deadline Dates	Comments
Mediation, with PBM; fact-finding per PLRB; voluntary binding arbitration with decisions requiring legislation advisory only	Must be bargained; must include binding arbitration. PBM available	Standard provisions for unfair practices Strikes permitted if not endangering public well-being; after exhaustion of mediation and fact-finding procedures Injunctive relief; court review. Suspension, demotion, dismissal, salary loss, fine, imprisonment for violation of court order	Written contract By budget submission date	State has separate collective bargaining laws for (1) police and firemen: SB 1343 L 1968; and (2) municipal transit employees: Act 228 L 1967 State employees to bargain on state wide basis unless circumstances are impractical for such. Multunit bargaining not prohibited Contracts may not conflict with state law or home rule provisions Provisions of contract and/or arbitration decisions requiring legislation not effective until legislation enacted Nonstriking employees may not refuse to cross picket line; refusal constitutes participation in strike
Mediation and conciliation services through state education agency, director of labor or other source. Arbitration at request of either party, binding on all matters except money	No specific provisions	Strikes prohibited	Written contract not to exceed 3 years No deadline specified	In January 1973, the state supreme court ruled teacher strikes illegal and subject to injunction Decision also eliminated ex parte injunction
Mediation, fact-finding, binding arbitration on "all issues and matters other than . . . wages," through SLRB	No specific provisions	No specific provisions for unfair practices Strikes prohibited No penalties specified	Written contract No deadline specified	Law passed in 1979 making failure to implement an arbitration award in any area of the public sector an unfair labor practice. Heard on petition by Rhode Island SLRB State has firemen collective bargaining law: § 28-9, 1-2 through 28-9, 1-16 and policemen collective bargaining law: § 28-9.2.2 through 28-9.2-15 State policemen's statute amended to provide for binding arbitration on all issues including wages; passed 1978
At request of either party, mediation, conciliation, binding arbitration on non-fund matters. SLRB available	State director of labor available for conciliation of grievances. Arbitration permitted	Good faith bargaining required Strikes prohibited No penalties specified	Written contract not to exceed 3 years. No deadline specified	

State, Reference, Identification	Coverage, Exclusions	Bargaining Unit, Union Security	Middle-Management Provisions	Administration	Scope of Bargaining, Management Rights
SOUTH DAKOTA Compiled Laws: Public Employee Negotiation Law: § 3-18-1 through 3-18-17 CB K-12 P-C PS Omnibus Enacted: 1969 Last Amended: 1978	Employers of state and its political subdivisions. K-12 and postsecondary, and classified Excluded: elected, board of commission members, administrators, chief executive officers, deputies, first assistants, supervisors, part-time, temporary, national guard and court employees	Appropriate units No union security	School administrators are not among exceptions to coverage in law. They may bargain	Within Department of Labor, Division of Labor and Management (DLM)	Rates of pay, wages, hours of employment or other conditions of employment
TENNESSEE Education Professional Negotiations Act: Title 49, § 5501 through 5518 CB K-12 P Local Level Enacted: 1978	Certificated public school personnel. K-12 professional level	Units of professional personnel No union security	"Management personnel" means those professional employees certified by the board of education to represent it in bargaining. May remain members of unit, but not for bargaining	Local board of education State commissioner of education	Conditions of employment, defined as: (1) salaries or wages, (2) grievance procedures, (3) insurance, (4) fringes, not including retirement, (5) working conditions, (6) leave, (7) student discipline, (8) payroll deductions
TEXAS Vernon's Codes, Annotated	Board of trustees and administrative personnel of school districts may consult with teachers on matters of education policy and conditions of employment. VTCA § 13.901. In May 1967 (#M-77) attorney general ruled that public employees have the right to present grievances concerning wages, hours and working conditions through a union not claiming the right to collective bargaining or strikes. VTCA § 22.278 forbids public employee collective bargaining contracts or strikes. State has Fire and Police Employee Relations Act permitting collective bargaining in local jurisdictions only after petition and public referendum: HB 185 of 1973. A 1974 attorney general's opinion states that employers are obligated to hear grievances, but not to bargain.				
UTAH	State has Firefighters Law: § 34-20a-1 through 34-20a-9. Right-to-work law allows organization but not negotiation				
VERMONT Statutes Annotated: Labor Relations Act for Teachers: Tit. 16, § 1981 through 2010 MC K-12 P Local Level Enacted: 1969	Certificated employees of school boards or directors of school district or its equivalent in quasi-public or private elementary/secondary school that "directly or indirectly receives support from public funds"	Separate units for teachers and administrators. No union security	Principals, assistant principals and administrators other than superintendents and assistant superintendents may bargain in separate units	No specific provisions	Salaries, related economic conditions of employment, grievance procedures, other mutually agreed-upon items not in conflict with statutes



Bargaining Impasse Procedures	Grievance Procedures	Unfair Practices, Strikes and Penalties	Final Form, Deadline Dates	Comments
At request of either party, mediation by Commissioner of Labor and Management Relations available; other procedures optional	May be bargained, or informal procedures must be developed by employer; or procedures developed by DLM used. DLM may issue binding decisions on appeals	Standard provisions for unfair practices Strikes prohibited Fines, imprisonment, injunctive relief, court review	Written contract No deadline specified	Agreements must be submitted to appropriate legislative body, governing body or officer for approval and necessary implementation Attorney general's opinion, March 1972, held that "other conditions of employment are those which materially affect rates of pay, wages, hours of employment and working conditions" State supreme court ruled in March 1974 that bargaining is not required on elementary conferences, teachers aides, class size, audio-visual expansion, schoolwide guidance and counseling, mandatory administrator retirement, elementary planning period or budget allowances
At request of either party, mediation, fact-finding, advisory recommendations. Federal Mediation and Conciliation Service, American Arbitration Association may be used	Must be bargained. May include binding arbitration of disputes involving the interpretation, application or violation of the agreement	Standard provisions for unfair practices Strikes prohibited Injunctive relief. Dismissal, loss of tenure, fines, recognition loss for violation	Written contract not to exceed 3 years No deadline specified	Cost items in bargained contract subject to governing body approval and appropriation. If rejected, renegotiation prescribed Contracts may not be contrary to federal/state law/rules/board of education rights State has public transit bargaining law: Ch. 160, L. 1971; TCA 6-3801 through 6-3809
Mediation, fact-finding, nonbinding recommendations. American Arbitration Association may assist. Employer decision final	Must be bargained	No specific provisions for unfair practices. Actions posing "clear and present danger to sound program of school education" prohibited Injunctive relief	Written agreement No deadline specified	A meet and confer law Although the work "strike" is not used anywhere in this act, court interpretation of "actions posing clear and present danger . . . could include — or not include — strikes, on a case-by-case basis

State, Reference, Identification	Coverage, Exclusions	Bargaining Unit, Union Security	Middle-Management Provisions	Administration	Scope of Bargaining, Management Rights
VERMONT Ch. 27, L. 1969: State Employee Labor Relations Act. CB K-12 P-C PS Coverage is selective: all state university personnel excluded. State Level Enacted: 1969 Last Amended: 1977	State employees including: certificated primary and secondary teachers at state hospital, state training school for retarded, state juvenile correctional institution; faculty and non-faculty at state colleges; state police, permanent part-time Excluded: certain exempt personnel, administrative, management, confidential, legislative branch, judicial branch, certain other. Also excluding all personnel at state university	Appropriate unit determined by SLRB No union security	Supervisors, as defined, may bargain in separate units	State Labor Relations Board (SLRB): 3 members appointed by governor with senate confirmation	All matters relating to relationship between employer and employees except those prescribed or controlled by statute, including but not limited to: (1) wages, salaries, benefits, expenses; (2) hours; (3) working conditions; (4) overtime compensation; (5) leave compensation; (6) reduction-in-force; (7) grievance procedures; (8) insurance; (9) certain personnel rules Merit system and personnel laws protected; other management rights
VERMONT Statutes Annotated: Municipal Employee Relations Act: § 21-1721 through 21-1735 CB K-12 C Local Level Enacted: 1973 Last Amended: 1978	Employees of political subdivisions of state: K-12 classified Excluded: elected, supervisors, confidential, certificated, part-time.	Separate units for professional and nonprofessional Dues checkoff, service fees permitted	Supervisors may not bargain	State Labor Relations Board (SLRB): 3 members appointed by governor with senate confirmation	Wages, hours and other conditions of employment, defined as those conditions "directly affecting the economic circumstances, health, safety or convenience of employees" Managerial prerogatives excluded from bargaining
VIRGINIA State has no public employee collective bargaining legislation. State supreme court ruled in January 1977 that public employees may not bargain with local governing bodies or school boards.					
WASHINGTON Revised Code Annotated: Educational Employment Relations Act: § 41.59.010 through 41.59.950 CB K-12 P Local Level Enacted: 1975 Last Amended: 1979	Certificated employees of school districts, K-12 professionals Excluded: chief executive officers, superintendents, deputy superintendents, administrative assistants to superintendents, assistant superintendents, business managers, confidential	All covered employees. Units may contain varied combinations of supervisors and non-supervisors by majority vote of both. Nonsupervisor units must include all such except vocational schools, which may have separate units Dues checkoff, service fees permitted	Principals and supervisors may bargain in separate units or in various combinations (including nonsupervisory) by vote of all co-minded groups	Public Employment Relations Commission (PERC): 3 members appointed by governor with senate confirmation	Wages, hours, terms and conditions of employment. Prior law not to affect scope. Separate principal/supervisor units limited to compensation, hours, number of workdays Management rights defined
WASHINGTON Revised Code Annotated: Community College Negotiations Act: § 28B.52.010 through 28B.52.200 CB CC P Community College Enacted: 1971 Last Amended: 1978	Academic employees of community college districts, defined as teachers, counselors, librarians, department heads, administrators Excluded: chief administrator	All covered employees. Administrator may be included in academic unit by election No provisions for union security	Administrators, except chief administrators, may bargain with academic unit by mutual consent	Public Employment Relations Commission (PERC): 3 members appointed by governor with senate confirmation	Curriculum, textbooks, inservice training, student teaching, personnel hiring and assignment practices, leaves of absence, salaries, noninstructional duties Management rights protected

Bargaining Impasse Procedures	Grievance Procedures	Unfair Practices, Strikes and Penalties	Final Form, Deadline Dates	Comments
Upon request of either party, mediation, fact-finding through SLRB. SLRB selects one last best offer to submit to legislature	Must be bargained. Rules and final determination by SLRB; court review	Standard provisions for unfair practices. Strikes prohibited, listed as unfair practice Teachers considered municipal employees for enforcement of sections dealing with unfair labor practices. See Municipal Employee Relations Act below	Written agreements not to exceed 2 years (except for state colleges)	Agreements may not conflict with statutes Agreements requiring appropriations must be submitted to governor, who must request funds from legislature. If insufficient funds are appropriated, renegotiation prescribed
Upon request of either party, mediation, fact-finding, advisory recommendations. Voluntary binding arbitration. Municipality may adopt binding arbitration procedures through referendum. Court review.	May be bargained. Binding arbitration of contract interpretation grievance may be included. Voluntary binding arbitration of tenure grievances must be only procedure for such; supersedes state law	Standard provisions for unfair practices Strikes permitted only: 30 days after fact-finding, after binding arbitration award, and if no danger to public well-being. Injunctive relief	Written contract No deadline specified	Closed meetings may be held for bargaining sessions. Final action in public meeting Records may be closed if they relate "specifically to negotiation of contracts including but not limited to collective bargaining agreements with public employees"
Mediation, fact-finding through PERC, or by other procedures agreed upon by parties	May be bargained; may include binding arbitration	Standard provisions for unfair practices No specific provisions for strikes Injunctive relief damages, court review	Written contract not to exceed 3 years if requested by either party No deadline specified	Act supersedes existing statutes where conflict exists. Contracts prevail over existing rules and regulations of employer
Mediation, fact-finding with consent of both parties	No specific provisions	No discrimination because of exercise of rights. Court enforced No specific provisions for strikes	Written contract not to exceed 3 fiscal years No deadline specified	Contract is not binding on future actions of legislature PERC has ruled it has no unfair labor practice jurisdiction under this law

State Reference Identification	Coverage, Exclusions	Bargaining Unit, Union Security	Middle-Management Provisions	Administration	Scope of Bargaining, Management Rights
WASHINGTON Revised code Annotated: Public Employees Collective Bargaining Act: § 41.56.010 through 41.56.950 CB K-12 C Local Level Enacted: 1967 Last Amended: 1979	Employees of counties, municipal corporations, political subdivisions. K-12 classified personnel Excluded: those covered by other bargaining laws, elected, appointed, confidential	Appropriate units Dues checkoff, service fees permitted. Union Security provisions prevail over charter, ordinance, rule or regulation	No specific provisions Supervisors are employees per METRO 88 Wn 2d 930 (1977) but are often placed in separate units	Public Employment Relations Commission (PERC): 3 members appointed by governor with senate confirmation	Grievance procedures, wages, hours, working conditions.
WASHINGTON State Higher Education Personnel Law: § 28B.16.010 through 28B.16.930 CB PS C CC C State Level Enacted: 1971 Last Amended: 1977	State classified employees of post-secondary education institutions, including community colleges	Appropriate units Dues checkoff, service fees permitted	No specific provisions Supervisors are employees per METRO 88 Wn 2d 930 (1977) but are often placed in separate units	State higher education personnel board: 3 members appointed by governor with senate confirmation	Grievance procedures and all personnel matters over which institutions or related boards may lawfully exercise discretion
WEST VIRGINIA State has no public employee collective bargaining legislation					
WISCONSIN Statutes Annotated: Municipal Employee Relations Act: § 111.70 through 111.71 CB K-12 P-C CC C Local Level Enacted: 1959 Last Amended: 1970	Employees of political subdivisions of state. K-14 professional and classified Excluded: independent contractors, supervisors, confidential, managerial or executive	Appropriate units. Professionals and nonprofessionals in separate units; may be combined by mutual consent Dues checkoff, service fees permitted. Fair share service fees subject to referendum. Referendum not necessary if unit is certified	Managers and supervisors, as defined, may not bargain. Uniformed services supervisors have limited bargaining rights	Wisconsin Employment Relations Commission (WERC): 3 members appointed by governor with senate confirmation	Wages, hours and conditions of employment Management rights defined
WISCONSIN Statutes Annotated: State Employment Labor Relations Act: § 111.80 through 111.97 CB K-12 P-C PS C State Level Enacted: 1966 Last Amended: 1978	Employees in classified* service of state. Includes K-12 teachers in state institutions, K-12 and postsecondary classified in state institutions Excluded: post-secondary teachers in state system, temporary, seasonal, project, supervisors, management, confidential, WERC employees. * See glossary	Statewide units for: (1) clerical; (2) blue collar; (3) building; (4) security; (5) technical; (6) professional; (7) fiscal and staff; (8) research; (9) legal; (10) patient treatment; (11) patient care; (12) social services; (13) education; (14) engineering; (15) science. WERC assigns employees to units. Dues checkoff, service fees permitted	Professional and nonprofessional supervisors may petition for statewide separate units; bargaining scope limited to wages and fringe benefits	Wisconsin Employment Relations Commission (WERC): 3 members appointed by governor with senate confirmation	Wage rates, fringe benefits, hours and conditions of employment, grievance procedures Extensive management rights listed. Management may not bargain (1) statutory missions and goals; (2) ment system
WYOMING. State has firefighters law. § 27-265 through 27-273.					

Bargaining Impasse Procedures	Grievance Procedures	Unfair Practices, Strikes and Penalties	Final Form, Deadline Dates	Comments
Mediation	Must be bargained. May include binding arbitration on disputed interpretation of agreement	Standard provisions for unfair practices; injunctive relief Strikes prohibited No penalties specified	Written contract not to exceed 3 years No deadline specified	State also has Port District Employee Act: SB 34, L 1967; and Ferry System Law: Ch. 47.74 RCW; 1949
No specific provisions Procedures adopted by rule including interest arbitration now in litigation	Must be bargained	Standard provisions for unfair practices; injunctive relief Strikes prohibited No penalties specified	Written agreement No deadline specified	Cost items subject to approval of chief financial officer
May be bargained. May include binding arbitration, strike authorization. WERC available for mediation-arbitration at request of parties or on WERC initiative; mediation, fact-finding and final offer mediation-arbitration by WERC	May be bargained. May include binding arbitration	Standard provisions for unfair practices Strikes permitted after exhaustion of specified procedures. If both parties withdraw final offers during arbitration, strike is permitted Fines, salary loss, loss of dues check-off, injunctive relief for illegal strikes	Written contract not to exceed 3 years No deadline specified	State has policeman and fireman collective bargaining: WSA § 111.77 State supreme court ruled in June 1976 that mandatory subjects of bargaining included: (1) teacher participation in evaluation procedures, (2) scope of teacher evaluation and employment records, (3) teacher access to such files and records, (4) "just cause" standards for contract non-renewal, (5) reduction-in-force procedures, (6) problem students/teacher safety, (7) school calendar and inservice training days, (8) impact of class size
Mediation by WERC at its own initiative or request of either party. Parties may jointly request fact-finding from WERC	Must be bargained. May include binding arbitration	Standard provisions for unfair practices Strikes prohibited; listed as unfair practice Fines, discipline, dismissal, suspension without pay, or lawsuit for violation	Written document No deadline specified	Tentative agreements with executive branch must be submitted to Legislature for approval, implementation on cost of statutory matters. If rejected, renegotiation required Agreements with state supersede civil service, statutes related to wages, hours and conditions of employment

State, Reference, Identification	Coverage, Exclusions	Bargaining Unit, Union Security	Middle-Management Provisions	Administration	Scope of Bargaining, Management Rights				
<p>WASHINGTON, D.C.</p> <p>Government Comprehensive Merit Personnel Act</p> <p>Law 2-139: § 103 through 1801</p> <p>CB</p> <table border="1"> <tr> <td>K-12</td> <td>P</td> </tr> <tr> <td>PS</td> <td></td> </tr> </table> <p>Enacted: 1978 (effective 1980)</p>	K-12	P	PS		<p>All employees of District of Columbia. Includes K-12 and postsecondary professionals.</p> <p>Excluded: K-12 and postsecondary classified, judicial branch, management, supervisory, confidential, and employees of the Council of D.C.</p>	<p>Appropriate units, community of interest. Units may not include both professional and non-professional unless majority of professionals vote for inclusion</p> <p>Dues checkoff, service fees permitted</p>	<p>Supervisors of D.C. Board of Education may form separate unit</p>	<p>Public Employee Relations Board (PERB): 5 members; 1 labor, 1 employer (agency head), 3 public appointed by mayor</p> <p>Office of Employee Appeals (OEA): 5 members appointed by mayor</p>	<p>Compensation; i.e., salary, wages, health benefits, within-grade increases, overtime pay, education pay, shift differential, premium pay, hours and any other compensation matters. "All matters shall be deemed negotiable except those that are proscribed by this title</p> <p>Extensive management rights listed</p>
K-12	P								
PS									

Bargaining Impasse Procedures	Grievance Procedures	Unfair Practices, Strikes and Penalties	Final Form, Deadline Dates	Comments
Parties may declare impasse. On the failure of either party to begin negotiations 90 days prior to contract expiration, or negotiations continuing for 180 days, constitutes an automatic impasse. Mediation, fact-finding and arbitration through PERB	May be bargained or management issues grievance procedures. May include binding arbitration.	Standard provisions for unfair practices Strikes prohibited; listed as unfair practice "Remedies of the board" include withdrawal of recognition and recommended discipline or reinstatement of employees. Court review	Contracts for a period of not less than 3 years	Management must approve bargained agreement and then submit it to the D.C. Council. If rejected by Council, renegotiation required Management shall establish a personnel salary and benefits study committee to conduct annual studies of compensation being paid to comparable groups of employees

IV. State Law Provisions Regarding Open Meeting Requirements

State	Open Meeting Requirements
Alaska (A 14.20.550 through A 14.20.610)	Negotiating meetings may be closed by mutual consent, but final agreements shall be made at public meeting.
(Public Employment Relations Act)	Final agreement must be made at public meeting.
California	All initial negotiations proposals must be presented at a public meeting of the employer. New subjects of bargaining must be made public within 24 hours.
Connecticut	Closed sessions may be held for "strategy or negotiations."
Delaware	Closed sessions may be held for "strategy or negotiations."
Florida	Closed meetings may be held for "all discussions between chief executive officer of public employer and legislative body of public employer relative to collective bargaining" . . . and "all work products developed by public employer in preparation for negotiations" are not public documents. Open meetings must be held for "collective bargaining negotiations between a chief executive officer and a bargaining agent."
Hawaii	Closed meetings may be held "to deliberate concerning the authority of persons designated by the board to conduct labor negotiations . . . or during the conduct of such negotiations."
Idaho	Joint ratification of all final offers of settlement shall be made in open meetings. Records or proceedings open. Closed meetings may be held "to conduct deliberations concerning labor negotiations . . . if either side requests."
Indiana	Closed meetings may be held for litigation, property purchase, personnel matters and confidential records
Iowa	First two bargaining sessions must be open to the public. Fact-finding and arbitration hearings are public. Final action at open meeting.

State	Open Meeting Requirements
Kansas (Teacher Law)	Negotiations sessions are subject to open meeting requirement.
(Public Employee Law)	Negotiations sessions are not subject to open meeting requirement.
Maine (Public Employee Law)	Open meetings for negotiations by mutual agreement. Discussions of contracts and proposals may be held in executive session. Public employers' preparatory materials are closed records. Final action in public meeting. Either party may publicize initial proposals 10 days after exchange of proposals.
(University Employees Bargaining Rights)	Discussions of labor contracts and proposals may be held in closed meetings. Open meetings may be held by mutual consent. Final action must be public. Preparatory negotiating materials are closed records. Either party may publicize initial proposals 10 days after exchange of proposals.
Maryland	Closed meetings may be held for conducting negotiations. Final action in public meeting.
Massachusetts	Closed meetings may be held to discuss strategy and to conduct bargaining sessions.
Michigan	At request of either party, closed meetings may be held for "strategy and negotiations sessions."
Minnesota	All negotiations, mediation sessions and hearings shall be public meetings except when otherwise provided by director of BMS.
Missouri	Open meeting law does not exempt bargaining sessions from open requirement.
Montana	Open meeting law does not exempt bargaining sessions from open requirement. Closed meetings for personnel matters.
Nebraska	Closed meetings may be held for strategy sessions. Final action in open meeting.
Nevada	Closed meetings may be held for negotiations, informal discussions, mediation, fact-finding discussions between governing body and management representatives. Hearings on complaints must conform to open meeting law, but board's deliberations may be closed.
New Hampshire	Closed sessions may be held for bargaining, but final action must be in public meeting.
New Jersey	Closed meetings may be held for "discussion" of any collective bargaining agreement, proposed terms and conditions, negotiation of terms and conditions and personnel matters.

State	Open Meeting Requirements
New York	Open meetings are not required for bargaining.
North Dakota	Constitution requires all meetings to be open unless otherwise provided by law.
Oklahoma	Open meeting law does not exempt bargaining sessions from open requirement.
Oregon	Closed meetings may be held for "deliberations concerning the authority of persons designated by the governing body to carry on labor negotiations" and "if either side requests closed meetings." Final action at public meeting.
Pennsylvania	Closed meetings may be held for "considering actions of the deliberating body with respect to labor negotiations." Final action at public meeting.
Rhode Island	Closed meetings may be held for "sessions pertaining to collective bargaining or litigation or work sessions."
South Dakota	Closed meetings may be held for "the purpose of considering student, employee and personnel matters." Official action at open meeting.
Tennessee	Open meeting law does not exempt bargaining sessions.
Vermont	Closed meetings may be held for bargaining sessions. Final action in public meeting. Records may be closed if they relate "specifically to negotiation of contracts including but not limited to collective bargaining agreements with public employees."
Washington	Closed meetings may be held for "bargaining grievance or mediation procedures," but results must be ratified in open meeting to comply with open meeting law.
Wisconsin	Closed meetings may be held during bargaining process. Final legislative action at open meeting. On petition of 5 citizens, public hearing must be held for mediation-arbitration.
Washington, D.C.	Bargaining sessions are closed. Fact-finding proceedings are open.

V. State Level Implementation of Bargaining Laws

In 1980 there are 31 states (plus the District of Columbia) with bargaining laws that cover elementary/secondary teachers alone, and there are probably at least 31 different ways in which the state-level administration of these laws can be handled. Five of the states with teacher bargaining laws avoid state involvement for the most part. Three states provide for some administration by the state education agency or state board of education. Eight states have assigned the process to a state entity or agency that existed before the onset of teacher bargaining (five of them are agencies that handle private labor relations as well and three are agencies devoted only to the public sector.) About half — 15 — of the states with bargaining laws have provided governing structures (11 with exclusively public responsibilities and 4 with private sector assignments as well) commonly known as public employment relations boards (PERBs) or labor relations commissions. These facts are revealed by an examination of the state bargaining laws for teachers and other public employees. See the chart beginning on page 16.

But the situation is not that simple. A closer look at the boards, commissions and agencies reveals that the state-level administration of K-12 teacher bargaining is sometimes spread over a number of agencies or special entities, in compliance with state law, by delegation, memo of agreement or contract. Further, public employment relations boards vary widely in composition, structure and responsibilities—much more so than long-established state labor relations agencies.

PERBs have from three to five members who are most often appointed by the governor with senate confirmation, and who may take an active full-time part in the administration of teacher and/or other public employee bargaining, or who may be part-time public servants whose involvement is limited to, for example, hearing appeals on certain kinds of decisions issued by agencies more actively enmeshed in the bargaining process.

Criteria for selection as a PERB member varies from state to state. Some states require that board members be broadly representative of the public; some require that they have expertise or background in labor relations; some require that representation on the board be divided among those who are labor oriented, those who are management oriented, and those who may be perceived as neutral, etc. Terms on almost all of the boards are set for a specific number of years, and are staggered to insure continuity.

In some states careful provisions are made in the law to insure the autonomy and independence of the PERB, and in other states such provisions are minimal. Providing for autonomy and independence, of course, is much easier when a special board, commission or agency is set up than it is when the administration of public employee bargaining is assigned to an agency that is already a part of state government and that has additional responsibilities either within or outside of the public sector.

In an effort to better understand the structure and operation of the state-level agencies and boards that administer K-12 teacher bargaining, we selected four states for on-site visits and interviews. In selecting these states, we considered the following criteria:

1. Geographical location
2. Type of bargaining law
3. Degree of state-level involvement in the administration of the law
4. Degree of maturity of bargaining activity
5. Types and numbers of state entities involved in the bargaining process
6. Travel constraints.

The states selected were:

New York: The state level administration of public employee bargaining is almost totally in the hands of one agency, the Public Employment Relations Board (PERB). Public employee bargaining relationships have been well-established over the past 13 years. Strikes are prohibited.

Minnesota: The state has a fairly comprehensive public employment bargaining law and bargaining relations have been conducted under it for the past nine years. Administration of the law is split three ways among a PERB, the state Bureau of Mediation Services and the courts. Certain strikes are permitted.

California: The state is working with a law that was enacted in 1975 for K-14 education personnel, and which replaced a meet and confer law. Administration is divided two ways, between a PERB and the State Mediation and Conciliation Service. Strike activity may or may not be "protected."

Kansas: The state is undergoing rapid changes in the administration and conduct of K-14 teacher bargaining. Professional employees of school districts do not bargain under a public employee law. There is a special law for them, with a separate administrative process. In the past few years, this administration has moved rapidly from implementation primarily at the local level with some state education agency involvement, through an administrative split between the state labor relations agency and the courts, to primary administra-

tion by the state's single, and very small, labor relations agency.

New Jersey, Wisconsin, and Pennsylvania, all major bargaining states worthy of investigation, were *not* selected for special investigation because the state-level entities within them that handle bargaining relationships have recently been subjected to an intense evaluation. The reports emanating out of the evaluations were made available to us by the Public Employment Relations Services, Albany, New York, and were used as background information, providing valuable insight to us for our investigation.

Prior to embarking on the site visits, an interview guide was developed to provide a skeletal framework for the areas of information we wished to cover. These areas included:

1. The structure of the board and/or agency
2. The organization and assignment of staff
3. The internal decision-making process
4. The functions executed by the board or agency
5. The process followed in handling key points in bargaining relationships
6. Policies, procedures, style and neutrality

With these basic areas in mind, and in fact, with cue cards in hand, we conducted our interviews, limiting them to two hours for the most part. All of the persons interviewed were extremely cooperative and discussed their operations freely. The interview style was passive. After a preliminary explanation of what we wanted to know, we assumed a nondirective stance, saying in essence, "Tell me about your operation." We confined our interruptions in the interview to questions designed to keep the interviewee on track and request for clarification or expansion. In all of the interviews, areas came up that were not listed on our cue cards, and we used our own judgment to either redirect the conversation or to permit it to continue, depending on the significance of the topic to the overall investigation. Thus, while the basic information sought is fairly well covered in each of the state reports, parts of each report cannot be compared or contrasted with the other reports. Indeed, it is difficult to make many valid comparisons from state to state because of the vast differences among them.

Each interviewee had an opportunity to review and comment on the reports in draft form, and they were subsequently amended before being put into final form. These final interview reports are much too lengthy to include in this book, but information from them will be used throughout this discussion. The full reports, *State Involvement in Education Labor Relations: A Report on Four States*, are available from the Education Commission of the States, Department of Research and Information, at a cost of \$5. Basic information on the involvement of state-level boards and agencies in public employee bargaining is noted on the charts on the following pages. Discussion focused on the four states follows the charts.

State-Level Functions: K-12 Teacher Bargaining*

State/ Board/ Agency	Representation/ Recognition/ Elections	Unit Determination	Impasse Resolution/ Other Procedures	Grievance Resolution	Unfair Practice Charges	Notes
CALIFORNIA Public Employ- ment Relations Board (public)	X	X			X	
Mediation and Conciliation Service (public and private)			Supplies staff mediators, lists of fact-finders and rarely, lists of arbitrators	Supplies lists of arbitra- tors		Agency supplies services re memo of agreement with PERB
CONNECTICUT State Education Agency (public)	X	X	Local mediation. Compulsory binding arbitration through State Education Agency			15-member arbitration panel appointed by governor
State Board of Labor Relations (public and private)					X	
DELAWARE State Education Agency (public)	X		Assistance			Emphasis on local administration

FLORIDA
Public Employment
Relations
Commission
(public)

X

X

Mediation
services. Fact-
finding by
"special master"
selected from
panel

X

HAWAII
Public Employment
Relations
Board (public)

X

X

Mediation, fact-
finding and
arbitration
services

X

X

IDAHO
State Education
Agency —
superintendent
(public)

Locally
determined
procedures
only

Local mediation.
May assist
appointing
fact-finder

Emphasis on
local
administration

INDIANA
Education Employment
Relations
Board (public)

X

X

Mediation and
fact-finding
services

X

X

IOWA
Public Employment
Relations
Board (public)

X

X

Mediation and
fact-finding
services. Binding
arbitration is
imposed at
request of
either party

X

X

KANSAS
Secretary of
Human Resources
(public)

X

X

Mediation and
fact-finding
services

X

Labor relations
agency/PERB
provides
services for SHR

*Some functions may be handled at the local level, but state board/agency is available and may be used at option of parties or must be used at specified process. A check or note in column indicates at least some degree of state-level involvement. Court involvement is not noted on table.

State-Level Functions: K-12 Teacher Bargaining* (continued)

State/ Board/ Agency	Representation/ Recognition/ Elections	Unit Determination	Impasse Resolution/ Other Procedures	Grievance Resolution	Unfair Practice Charges	Notes
MAINE Maine Labor Relations Board (public) (private — in practice)	X	X	Mediation and fact-finding services. Mediation may be imposed by MLRB	X	X	
MARYLAND State Education Agency (public)	X	X	Assistance at request of either party	Locally determined procedures		Emphasis on local administration
MASSACHUSETTS Labor Relations Commission (public and private)	X	X		X	X	
Board of Concilia- tion and Arbitration (public and private)			Mediation, fact-finding and arbitration services	X		
MICHIGAN Michigan Employ- ment Relations Commission (public and private)	X	X	Mediation and fact-finding services	X	X	
MINNESOTA Public Employ- ment Relations Board	X	Rules on employee designa- tion for unit	Supplies lists of arbitrators, certifies awards	X		Primarily an appeals board for BMS decisions

Bureau of Mediation Services (public and private)	X	X	Mediation. Okays arbitration requests	Develops procedures for local use		
MONTANA Board of Personnel Appeals (public)	X	X	Mediation, fact-finding and arbitration services	Locally determined procedures		X
NEBRASKA State Education Agency (public)			May assist by supplying list of fact-finders			
Commission on Industrial Relations (public and private)	X	X	Mediation, fact-finding and arbitration services	X	X	Assumes jurisdiction after exhaustion of other procedures
NEVADA Local Government Employee-Management Relations Board (public)	X	X	Supplies lists of mediators and fact-finders	X	X	Emphasis on local administration
NEW HAMPSHIRE Public Employee Labor Relations Board (public)	X	X	Supplies lists of neutrals; may appoint	X	X	Emphasis on local administration
NEW JERSEY Public Employment Relations Commission (public)	X	X	Mediation, fact-finding and arbitration services	X	X	Special commission to handle agency shop fee disputes
NEW YORK Public Employment Relations B ^c	X	X	Mediation, fact-finding and arbitration services	X	X	Local jurisdictions may set up mini-PERBs

State-Level Functions: K-12 Teacher Bargaining* (continued)

State/ Board/ Agency	Representation/ Recognition/ Elections	Unit Determination	Impasse Resolution/ Other Procedures	Grievance Resolution	Unfair Practice Charges	Notes
NORTH DAKOTA Education Fact Finding Commission (public)	Procedures in law implemented locally		Local mediation. Fact-finding services by EEFC			Emphasis on local administration
OKLAHOMA						Emphasis on local administration using local procedures for small districts, procedures in law for large districts
OREGON Employment Relations Board (public and private) State Concilia- tion Service (public and private)	X	X	Fact-finding and arbitration services Mediation services for ERB		X	
PENNSYLVANIA Pennsylvania Labor Relations Board (public and private) Pennsylvania Bureau of Mediation (public and private)	X	X	Fact-finding and arbitration services Mediation services	X	X	

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RHODE ISLAND State Labor Relations Board (public and private)	X	X	Mediation, fact-finding and arbitration services		X	In practice, SLRB is not involved in K-12 bargaining process
State Education Agency (public)			Mediation, fact-finding and arbitration services			
SOUTH DAKOTA Division of Labor and Management (public and private)	X	X	May impose impasse resolution procedures	X	X	Emphasis on local administration
TENNESSEE State Commissioner of Education (public)			Assistance in local committee selection only			Emphasis on local administration, with optional use of FMCS or AAA
VERMONT State Labor Relations Board (public and private)			Local mediation and fact-finding	X		Emphasis on local administration, with optional use of AAA
WASHINGTON Public Employment Relations Commission (public)	X	X	Mediation and fact-finding services	X	X	
WISCONSIN Wisconsin Employment Relations Commission (public and private)	X	X	Mediation, fact-finding and mediation-arbitration services	X	X	

New York

Of the four states that were examined, probably the most sophisticated structure for the administration of public employee bargaining is in New York where control of the process is centered on a single board, served by its own staff. The Public Employment Relations Board has a full-time chairman (named by the governor) and two part-time members who are appointed by the governor for staggered six-year terms. The law establishing the public employment relations board requires only that its members be representative of the public, that they hold no other public office or employment, and that no more than two be of the same political party. But Ralph Vatalaro, interviewed in April 1980, was high in his praise of present and past board members who, he said, have all been professional labor relations practitioners. In addition, Vatalaro said that each governor has made appointments to the board with an eye toward insuring board neutrality, fairness and integrity.

The board administers a comprehensive law that covers most public employees in the state. A staff of 54 professional and support persons, mostly housed in a non-state building in Albany, New York, serves the board. There are a few staff members in satellite offices in New York City and Buffalo.

When compared to most PERBs, the New York board/agency is old and experienced, having been in operation for some 13 years. Operating procedures have been highly refined, and staff members appear to be competent and experienced.

Essentially the agency is divided into five sections: the employment practices and representation section deals, of course, with representation disputes, makes unit composition decisions and conducts and supervises representation elections. In addition, this section processes unfair practice charges. The conciliation section quite obviously provides impasse resolution assistance. The three other sections are the legal services unit, the admin-

istrative services unit and the research unit. Board members themselves serve as an appellate body for decisions and rulings issued either by them or by agency staff members. In addition, the board has the responsibility of imposing mandatory penalties for strikes, illegal in New York. The board and agency staff view as their primary mission the resolution of disputes in the public sector.

Minnesota

Minnesota's public employee bargaining law is comprehensive and includes K-12 teachers in its coverage. The Minnesota PERB will provide the reader a dramatic contrast to the New York board. It is skeletal by comparison, being served by only one full-time staff member, Claudia Hennen, executive secretary (interviewed in May, 1980).

The Minnesota PERB's primary function is that of an appeals tribunal, and it handles 25 to 30 appeals related to unit determination and fair share fees only; "not many" of these are from the education sector. The PERB's limited responsibilities do include the development of rules and regulations to oversee the public employee bargaining process, and the maintenance of a list of arbitrators for use by public bargaining parties.

The board is composed of five members who are appointed by the governor, and who serve four-year overlapping terms. The statute requires that two of the members represent labor, two of them represent management, and one represents the general public as a neutral. They are all part-time public servants who meet as a board at least once a month.

The major portion of the work involved in the administration of public employee and K-12 teacher bargaining relationships is handled by the Bureau of Mediation Services (BMS), which is directed by Peter Obermeyer (interviewed in May, 1980). The services of the bureau to the PERB are provided for in the law, and most of the legal references are to the director of

the BMS. This mediation agency was originally established to administer private employment relations and still does. The agency plays a role in recognition and representation disputes, unit composition disputes, the conduct and supervision of elections, impasse resolution and fair share fee questions.

In order to execute these responsibilities, the director employs a staff of 25, who are divided into four major units: a representation unit under the direction of a chief hearing officer; a mediation unit guided by a coordinator; an education (for bureau staff and general public) unit and an administration unit. Obermeyer sees as the primary mission of his agency the promotion of harmonious public employment relations within the state.

Unfair practice charges are routed through the Minnesota court system.

California

Instead of a comprehensive public employment bargaining law, the state of California has a number of specific laws under which public employees bargain. K-14 teachers are covered under the Education Employment Relations Act. It was this 1975 act that first set up the Public Employment Relations Board in California (initially named the Education Employment Relations Board, and as bargaining rights were expanded in California, renamed the Public Employment Relations Board). Specifically, the board is responsible for three of the state bargaining laws: the teacher law, a higher education law, and a state employee law (declared unconstitutional in 1980). Other public bargaining laws are administered by the State mediation and Conciliation Service (SMCS), and because the California teacher bargaining law prohibits the employment of neutrals (mediators, fact-finders and arbitrators) by the PERB, the SMCS supplies these neutrals to the parties at the request of the PERB, under a memo of agreement.

The California PERB has three

members who are appointed by the governor for five-year staggered terms. They serve in their positions on a full-time basis; and aside from a prohibition from holding other jobs, there are no particular qualifications laid out for board members in the law, nor is there a method outlined by which the governor makes his selections. A staff of 105 employees serves the board, and is dispersed through four locations: a main office and a separate regional office in Sacramento, and regional offices in San Francisco and Los Angeles.

The agency functions in two major areas, according to Janet Caraway, chief of operations (interviewed in June 1980). The representation area includes requests for recognition, interventions, decertification, unit modifications, requests to conduct organizational security elections, public notice complaints, compliance issues, mediation, fact-finding and arbitration. The other major area is unfair practice charges. A function of the board members themselves permeates both areas, and involves board approval of requests for injunctive relief in the case of work stoppages or lock-outs, and requests for judicial review of board or agency decisions.

The regional offices are set up to handle both the representation and the unfair practice function. The main office houses board members, board counsel (attorneys), general counsel (an attorney), and a central division of judges (attorneys) who oversee and administer unfair practice procedures handled by additional attorneys in the regional offices. In addition, the PERB executive director and staff in the management services division are housed in the main office. The agency that serves the board is structured to perform as a neutral agency in every sense of the word. Said Caraway, "We do not have a branch of the agency that acts as prosecutor in any manner."

Kansas

The Kansas structure for administration of K-12 teacher bargaining is

certainly the smallest of those that were examined. In Kansas, there is a public employment relations law that is administered by a public employee relations board, but this board is not involved in the administration of K-14 teacher bargaining—this area is assigned to the Secretary of Human Resources, who has delegated the task to his labor relations chief. However, the administration of both laws does come together in a sense under the Secretary, whose department houses both The Public Employee Relations Board and the Labor Relations Section of the Division of Labor-Management Relations. The administrative work of both teacher and other public employee labor relations is focused essentially in one man, Jerry Powell (interviewed in August 1980), who serves as both labor relations chief, with a variety of tasks, and executive director for the Public Employee Relations Board. Thus, the administration of all public bargaining in the state of Kansas is, essentially, in his hands. He is currently assisted by a staff of two: a conciliator and a secretary; and will within the next few months hire an additional conciliator and a clerk-typist in order to handle responsibilities that have grown in just a few years from only the mediation area to encompass both the representation area and the unfair practice function.

Powell is a civil service employee who reports both to the Secretary of Human Resources (for K-14 teacher bargaining) and to the Public Employee Relations Board (for other public employee bargaining). His position was classified as civil service because initially it was felt he would need that protection if he were to perform effectively as a neutral. He indicated that he had so far found such protection unnecessary.

The Labor Relations Section is located in a private office building along with other offices attached to the Secretary of Human Resources in downtown Topeka.

Powell stated that the major portion of the work of the labor relations section is devoted to the K-14 teacher area. But, in addition to handling relations for other public employees, he is

responsible for agricultural labor relations, state labor-management relations, private employment agencies and the child labor law. As directed by law, he uses the Federal Mediation and Conciliation Service (FMS) for formal mediation services. He also maintains lists of fact-finders for use by the bargaining parties. He views his agency primarily as a conciliation mechanism.

The Process

As is obvious from the brief structural descriptions above, we are dealing with four very different states who have chosen very different structural approaches for administering what is essentially the same process: the conduct of bargaining relationships between public employers and public employees. And although the examination of these states was limited to brief interviews and thus is fairly superficial, it appears at this point that each state's particular structure is functioning satisfactorily, particularly when one considers the state of the art and the degree of bargaining maturity in each state. It is clear from our look at these four states that the administration of K-12 teacher bargaining relationships is an evolving phenomenon in which the participants must be alert enough to anticipate and accommodate change, especially that which occurs at the local level.

The remainder of this discussion will be devoted to describing and contrasting the ways in which these four states implement, administer and monitor the bargaining process. In general, the focus will be on the process related to the development and maintenance of bargaining relationships between teacher organizations and school boards and the state role in each of the major facets:

1. Representation—the formalization of a bargaining relationship between teachers in a defined bargaining unit and a school board.
2. Impasse resolution—the steps that are followed in resolving a dispute that arises at the bargaining table

over terms and conditions of employment.

3. Unfair practice charges—the mechanisms for bringing, hearing, issuing rulings and applying remedies for activities that may be illegal under state bargaining laws. A significant number of states route unfair practice charges through their court systems—a mechanism not investigated for this report. However, some states assign this function to state-level agencies and/or boards and the unfair practice area is discussed in this context.

Getting Ready to Bargain

When teachers in an employee organization decide that they wish to bargain with their school board on their "salaries, wages and terms and conditions of employment," under most state laws they must first convince the school board that they are ready to begin the process—that they have the support of a majority of the teachers (and perhaps other school personnel) and that the group of employees who wish to bargain as a single unit is composed of those who have a community of interest—similar positions, similar salary scales and similar concerns. If the evidence supplied by the teacher organization is satisfactory to the school board, and if it fulfills the intent, if not the letter, of the law, rules and regulations imposed by the state, the school board must almost always recognize the organization as an exclusive representative, thereby agreeing to negotiate a contract.

It is quite possible, in many of the states with bargaining laws, for this simple and often uncomplicated process to occur without state involvement or intervention. Under New York law, local jurisdictions including school boards may organize and bargain under state law or under a local ordinance that is "substantially equivalent" to the New York law. If the recognition process is smooth and trouble-free, the PERB is not necessarily involved. State involvement in

an undisputed recognition procedure is not required in Minnesota either (the law is silent), but in practice, employee organizations and school districts have consistently requested state oversight and certification from the Bureau of Mediation Services. In California the law requires that the public employment relations board track and record the recognition process, even in the absence of a dispute. And in Kansas where, again, undisputed recognition may occur without state-level involvement, it most often doesn't because employee organizations and school boards lack a complete understanding of the legal requirements for recognition, and require state-level assistance to complete the process.

In all four of the states, however, the appropriate state agency is requested by the parties to provide assistance when there is a dispute over the establishment of a bargaining relationship between teachers and school boards: These disputes may revolve around a school board's doubt that the teacher organization has enough support to warrant the bargaining relationship; there may be either an undefined unit (insufficient identification of the employees who will be represented in the bargaining relationship or a lack of agreement between the parties on who will be included in the unit) or another employee organization may indicate that it too wishes to represent the same group of employees. Procedures are outlined in the law (in all of the four states examined) for handling these kinds of problems and the legal steps toward resolution are much the same. But three of the states employ an informal—and often effective—technique before resorting to a statutory dispute resolution procedure. New York, California and Kansas all, after verifying the bargaining parties' petition for assistance and complying with legal requirements for notification of the involved parties, will bring the disputing parties together in an informal setting and attempt to (1) define the problems and issues more clearly, (2) clarify the parties' understanding of the laws, rules, board, agency or court decisions that are rel-

evant to the dispute, and (3) mediate the dispute on the spot—thus allowing the parties an opportunity to come to their own agreement on the issues without having state-level decisions imposed on them.

The philosophy behind this informal step is that early, informal and amiable settlement of any dispute in the bargaining process will smooth the way for further negotiations in a congenial or at least less hostile environment. Jerry Powell, Labor Relations Chief in Kansas, explained the rationale this way: "We don't like to make winners and losers, and that's what we do when we hold a hearing and issue a decision."

However, if the conciliatory process is not effective, hearings are held. While the representation dispute may center on any one of a number of items, most often, such disputes hinge on the selection of the personnel to be included in the bargaining unit. Until these employees are clearly identified, an election to determine exclusive representation by one organization or another, or a choice by those voting for "no representation," cannot be held.

Representation hearings are conducted much like any state administrative hearing. A hearing officer assigned by the appropriate agency collects by subpoena or some other way the appropriate documentation, hears the arguments of both parties, may subpoena necessary witnesses and issues a decision which usually is accompanied by an order for an election. If the issue is one of unit determination, the decision will specify which employees are appropriate for inclusion in the unit, and which employees may not be included in the unit—thus clearing the way for the election process.

All of the four states examined delegate the conduct and/or supervision of elections to the state-level agency assigned to deal with representation disputes. In New York and California, this agency is the PERB, in Minnesota it is the Bureau of Mediation Services, and in Kansas, the Labor Relations Section under the Secretary of Human Resources. In cooperation with the

parties, these staff people determine whether or not the elections should be on-site or by mail, set a date, identify observers, provide proper notification to the involved parties (and to the public if required by law), and collect and tally the ballots. Upon determining which organization, if any, has been selected by a majority of the voters, the agency provides the winning organization with "certification" as the exclusive representative of the employees in the bargaining unit. This state-level certification is a mandate to the employer to recognize the unit and to begin the bargaining process.

But, because even elections are not immune from complications, the state-level agency may have to involve itself more extensively in the election process. It may be necessary to investigate charges that rules and regulations for the election were violated, or to conduct run-off elections in the absence of a clear majority winner.

Another facet of the representation process is the collection of a service fee, often through payroll deduction, from employees in a bargaining unit who are not members of the organization that represents them at the bargaining table. Many of the states with bargaining laws permit this practice and indeed, one or two require it. The question of whether or not a service fee is to be imposed is very often negotiated at the bargaining table. The amount of the service fee, also known as an agency shop fee or fair share fee, may be equivalent to the regular dues of the members of the employee organization. Or, it may be a proportionate share of the dues that is directly related to the services performed by the employee organization for the nonmember. A few states (Minnesota for example) limit the service fee or fair share fee to 85 percent of member dues. As noted above, in a number of states the amount of the fee may be negotiated, but in addition, some of the state bargaining laws provide that the question of the service fee may be submitted to the bargaining unit members in an election. Often these elections are conducted and/or supervised by the state level agency

that is involved in the representation process.

In some of the states where imposition of a service fee is permitted, the bargaining law anticipates that individual employees may object to the payment of such fees. Some state laws permit individual employees to challenge the amount of a service fee if they believe that they are paying more than the value of the services the organization is providing them. In two of the states visited, New York and Minnesota, the public employment relations board receives these challenges and issues rulings on them, which may include an order that the employee be refunded an identified portion of the service fee. Vatalaro in New York, which calls its service fee an agency shop fee, and Obermeyer, who deals with Minnesota's fair share fee in the Bureau of Mediation Services, noted that such challenges are occurring more frequently than they have in the past.

At the Bargaining Table

Once the details of the representation process have been ironed out, the employer and the employee organization are in a position to begin bargaining. While some states set specific deadlines before which the bargaining process must begin, others are not so specific. They may require that bargaining be completed "in time for the budget-making process," or they may not address the issue at all. Whatever the case, sooner or later the parties meet at the bargaining table to negotiate the salaries, wages and other terms and conditions of employment of the members of the bargaining unit. The bargaining is actually conducted by representatives of both parties, who are sometimes, but not always, members of the employee organization or of the school board. School boards in particular tend to employ attorneys or professional negotiators, or on occasion even to assign the school superintendent to the job. Employee organizations may get help from state association offices.

Most of the time, the bargaining process, while it may not be as smooth as silk, is completed without resorting to extensive impasse procedures. But quite obviously there are times when final agreement cannot be reached without some kind of assistance, and all of the state laws that grant bargaining rights to teachers and/or public employees provide to the parties a mechanism for resolving bargaining disputes.

Impasse Resolution

The industrial bargaining model has provided the public sector with three fairly standard steps for impasse resolution: mediation, fact-finding and arbitration. However, not all state laws provide for all of these three steps. Mediation is universally recommended. Fact-finding is sometimes skipped. And most of the state laws stop short of requiring binding arbitration. In addition, many of the states permit the parties to develop their own impasse procedures within the constraints of the law.

Mediation, sometimes referred to as conciliation, is a facilitating process. When one or both of the bargaining parties decides that agreement on certain issues cannot be reached, or when a statutory time limit has expired, the state labor relations board or agency is contacted and asked to supply a mediator. In some states the bargaining parties are not required to go through state channels for impasse resolution but since this report is devoted to state involvement in teacher bargaining, we will not explore that alternative here.

State boards/agencies may supply mediators in a number of ways: from regular staff, from a list of ad hoc or per diem mediators, or the request may be forwarded to an organization like the American Arbitration Association or the Federal Mediation or Conciliation Service. Kansas, for example, requests the Federal Mediation and Conciliation Service to supply neutrals to the parties while California and Minnesota assign staff mediators.

New York maintains a panel of ad hoc mediators who work as subcontractors on a case-by-case basis.

The procedures a mediator uses to help the parties reach an agreement are not regulated in the state bargaining laws. Therefore, as long as the techniques employed are ethical and not in violation of some other section of state law, the mediator is free to use his or her own discretion in handling the dispute. In all of the states examined we learned that the mediator's technique is almost always tailored to fit individual situations and needs. He/she may find it necessary to be aggressive in one case or passive in another. It may be advisable for the mediator to be able to inform the parties about the law or to help them understand legal precedent. Always, the mediator should be able to convince the parties that he/she understands their positions and that his/her only interest is in helping the two parties move their opposing positions toward compromise and, ultimately, a signed contract or agreement. All of those interviewed in the four states visited said that the settlement rate for cases referred to mediation was very good.

But what happens when mediation fails? A majority of the states with bargaining laws provide for the fact-finding process, but some state laws eliminate this step and move directly to a form of voluntary or mandatory arbitration. The bargaining laws in New York, California, and Kansas provide for fact-finding while Minnesota law ignores it.

New York, California and Kansas do not supply staff fact finders. When the appropriate agency in these states receives a request for fact-finding assistance, the agency supplies the parties with a list of suitable fact finders and it is the job of the parties in most states to select a single fact-finder or a panel of fact finders from this list. But procedures vary a little from state to state. Kansas, for example, permits the parties to select either one fact-finder or a panel of three. California requires the parties to select a three-member panel. In New York, the parties indicate their preferences for

specific fact-finders on a list supplied by the PERB, but appointment of fact-finders is made by PERB.

Like mediators, fact-finders, once assigned to a case, proceed independently and on their own initiative. They are most often granted specific powers that enable them to secure necessary documents and statistical data and to conduct administrative hearings. After the documents and data are collected and the hearing has been held, with both parties presenting their cases, the fact-finder(s) is in a position to analyze the issues and make recommendations for settlement.

An essential slice of information in many fact-finding processes is the last-best-offer of each party on the issues that are in dispute. California and New York require only that the parties submit a list of the issues to be resolved, while Kansas and Minnesota require a formal last-best-offer from each party. Whatever the requirement, it is fairly safe to assume that when the data has been collected and the case has been heard, the fact finder is certain to know the parties' position on each issue. The place of each party's last-best-offer in the fact-finder's deliberations and recommendations is sometimes determined by state law. In some states the fact-finder may not be required to incorporate any position of either party into his/her recommendations. In others, he/she may be required to choose the entire last-best-offer of one party. Or state law may require that the fact-finder choose such last-best-offers on an issue-by-issue basis or to base recommendations on some other combination of factors. Some state laws contain provisions outlining the criteria to be applied in the development of fact-finding recommendations. These include a concern for the "best interests" of both parties and, certainly, in the process of coming to a decision, the fact-finder must analyze all of the data collected, and be aware of legal constraints that may affect the recommendations.

Fact finding recommendations are always advisory and the parties are

free to accept or reject them. If the recommendations are accepted, the dispute is over, of course. But if they are not accepted, one or more of several solutions, or non-solutions, are provided for, or not provided for, in state bargaining laws.

Most of the state laws skirt the issue of requiring the parties to submit to an arbitration procedure, although a significant number of them permit the parties to agree to arbitration. In some of the states that permit voluntary arbitration, (Pennsylvania and Rhode Island, for example) such arbitration must be restricted to mandatory subjects of negotiation or to non-fund items. At a certain point in the impasse time line, Connecticut requires the parties to submit to arbitration. Iowa imposes arbitration at the request of either party and Wisconsin uses a process that combines arbitration with mediation. Delaware flatly prohibits the use of arbitration in an impasse.

None of the four states visited requires arbitration. Kansas law is silent on the issue of arbitration. Instead, when fact-finding recommendations are rejected by either party in Kansas the public employer, after complying with certain procedures, is free to issue a unilateral contract "in the best interest of the employees and of the public." Teachers dissatisfied with the unilateral contract may, under 1980 amendments to the Kansas law, resign without monetary penalties. In California, if one or both of the parties rejects fact-finding recommendations, they are free to return to the bargaining table and continue negotiating, but that is as far as the statute goes.

An alternative to arbitration might be a strike in California, but statutory provisions regarding strikes are not clear and have been interpreted on the one hand to permit strikes and on the other to prohibit them. The PERB in California is divided on the issue and court decisions have been inconclu-

*Nevada law provides for "binding fact-finding," which is really arbitration by a less inflammatory name.

sive; the issue revolves about whether or not strikes can be ruled an unfair practice.

New York law permits the parties to agree to arbitration of a contract dispute but such arbitration is restricted to mandatory items of negotiation.

The arbitrator, like the fact-finder, operates independently in the case, reviewing the record of the fact-finder (or, in Minnesota's case, collecting information much like a fact-finder does) and coming to a final decision on the issues in dispute.

Strikes

New York law is clear on strikes—they are prohibited and some penalties are mandatory. When a strike is held, the employer must withhold two days pay for each day an employee is on strike. PERB must order the suspension of the dues and agency shop fee checkoff (payroll deduction) privilege of the union for a specific or indefinite period of time. However, these and other penalties may be appealed to the courts.

Minnesota law (which does not provide for fact-finding) does provide for both voluntary arbitration and strikes. In 1980, the legislature amended the public employee law to make it exceedingly specific on those actions. In that state, the point at which impasse may be declared is not when the parties request a mediator, but *after* mediation has failed or after a specific deadline has passed. At this point the Bureau of Mediation Services requests the parties to file their final positions for use by an arbitrator. If they comply, the process continues through to a final and binding decision, unless, of course, the parties resolve the dispute on their own during the arbitration process. But, under the Minnesota law, the parties do have an option at this point. They may refuse to file a final offer or reject the use of arbitration and, if a variety of other conditions are present and/or complied with, the employee organization may call a legal strike, after giving a ten-day notice to the employer and the

Bureau of Mediation Services. If the strike is perceived as a threat to the public well-being, the court may issue an injunction. Mandatory strike penalties include loss of pay for strike days, loss of organizational standing as exclusive representative and loss of dues checkoff privileges. But, as in New York, these penalties are appealable to the courts.

After the Strike?

What happens after a strike is conducted? This is an area that was not examined for this project. We know that illegal strikes may be enjoined, and that penalties may be applied, but we know very little about the process that is followed in order to bring the dispute to a final resolution and to bring the parties back together in a contractual working relationship. Oregon and Wisconsin, for example, both states that permit certain kinds of strikes, require that an illegal and enjoined strike be followed by binding arbitration of the dispute, and we note from our investigation of Kansas that the Labor Relations Section of the Department of Human Resources may be called in to provide additional mediation services during or after a strike. We are left with a great number of unanswered questions. Do the parties resume bargaining? Are they provided with additional state assistance? How long does it take them to arrive at a signed contract? What is the tone of employer employee relations after a strike? Does a strike during one round of contract negotiations affect the conduct of subsequent contract negotiations? What are the long term effects of strikes on public policy making?

Unfair Practice Charges

While a majority of the states with teacher bargaining laws have set up state-level machinery to handle much of the bargaining process a few of them have left the processing of unfair charges to state and local courts. This is true in Minnesota and until 1980 it

was true in Kansas. In New York responsibility for processing unfair practice charges is delegated to the PERB; this is the case in California as well. Both of these states have set up special divisions in their agencies to handle this aspect of the bargaining process. In New York, this is the employment practices and representation unit of the PERB and in California, the chief administrative law judge in the PERB carries the responsibility. The process for both states is essentially the same. Charges are filed by the employee organization, the employer or the individual employee. They are reviewed for timeliness and format and evaluated for validity. A hearing officer is assigned and, in both states, the parties are brought together for an informal prehearing conference at which the hearing officer employs mediation techniques in an effort to resolve the case on the spot and get the charge withdrawn. If this technique is not successful the case is submitted to a formal hearing, where evidence and testimony are provided by both parties. After the hearing, the hearing officer issues a decision that either (1) finds that no unfair practice has been committed or (2) verifies all or part of the unfair practice charge and orders appropriate remedies. In both states the hearing officer decisions may be appealed to the PERB board and finally to the courts.

It is in the unfair practice arena that scope of bargaining is most often addressed; Charges are filed under the umbrella of "failure to bargain in good faith." Therefore, the decisions that are issued here are responsible in part for the expansion or limitation or refinement of each state's scope of bargaining.

Staffing for State-Level Boards/Agencies

Staffing requirements in the four states examined vary greatly. And because of the nature of the state structures, and differences in responsibilities and case loads, comparisons are impractical. At first glance, it appears that California has the most state-level personnel involved in the administration of bargaining. The New York PERB has a smaller regular staff than California, but if one considers, for example, that the New York agency uses ad hoc mediators, not regular staff members, while the Bureau of Mediation Services in California uses *staff* mediators it is not so easy to decide which state uses more personnel, and perhaps it is not important.

Both California and New York rely significantly on personnel with law degrees (attorneys) to staff their agencies. These people are hired primarily for their hearing skills: In New York attorneys are used in both the representation and unfair practice hearings; and in California the major focus of most of the attorneys is in the unfair practice area with non-attorneys conducting the bulk of the representation

hearings. In addition, in both states attorneys serve as advisors to, and representatives of, the board members. There is less emphasis on the use of attorneys in Minnesota and Kansas. There are no staff attorneys in the Kansas Labor Relations Section, and only one in the Minnesota Bureau of Mediation Services. Perhaps the inclusion of a significant number of attorneys on an agency's staff reflects the application of state personnel policies — or budgeting practices since attorneys tend to be expensive — or it might be a simple application of the board or agency's view of the skills and competency required to administer the bargaining process. Agency or department heads in both Minnesota and Kansas, where the legal background of certain personnel does not appear to be as important, indicated that education qualifications for employment were less important to them than demonstrated skills, competency, and experience. Whatever the case, all of the agencies examined in the four states appeared to be functioning efficiently and effectively.

Appendix A

Impasse Resolution Procedures for Professional Education Personnel

State	Procedures May be Barg.	Mediation by Law	Fact-Find. by Law	Arbitration by Law	Strikes Permitted
Alaska		x		advisory	x PS and K-12 in state institutions restricted
California		x	x		
Connecticut		x	x PS only	K-12 compulsory	
Delaware		x	x	K-12 prohibited PS restricted	
Florida		x	x		
Hawaii	x	x	x	voluntary	x restricted
Idaho	x	x	x		
Indiana		x	x		
Iowa	x must	x	x	voluntary	
Kansas		x	x		
Maine		x	x may be waived by MLRB	restricted	
Maryland		x			
Massachusetts		x	x may be waived by parties	voluntary	

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Michigan		x	x		
Minnesota		x		voluntary	x restricted
Montana		x	x	voluntary	x restricted
Nebraska		x PS and selected K-12	x fact-find. only for K-12	voluntary for PS and selected K-12	
Nevada	x must discuss	x	x binding recommendations		
New Hampshire	x	x	x		
New Jersey		x	x	voluntary	
New York	x	x	x	voluntary	
North Dakota	x	x	x		
Oklahoma	x must	x	x		
Oregon	x	x	x	voluntary	x restricted
Pennsylvania	x	x	x	restricted	x restricted
Rhode Island		x	x PS only	restricted	
South Dakota		x	x optional	voluntary	
Tennessee		x	x		
Vermont		x	x		x restricted
Washington	x	x	x		
Wisconsin	x	x	x	compulsory	x restricted

Notes

Procedures may be Bargained

An "x" in this column means that the parties negotiating a contract may include their own procedures for impasse resolution in their agreement. If they choose not to do so, the procedures outlined in the law must be followed. Such provisions may cover mediation, fact-finding and arbitration, but not necessarily all of them.

Mediation, Fact-Finding, Arbitration

Mediation involves an effort by a third party or parties to facilitate the settlement of a dispute by the parties themselves. Fact-finding involves the collection and review of all relevant facts in a dispute by a third party or parties in order to submit independent recommendations for settlement. Recommendations are always advisory. However, Nevada's law³ calls for "binding fact-finding" — which should be named, more aptly, arbitration. Arbitration is the imposition of a final decision on the dispute by a third party or parties. This decision is made after a careful review of the case and of the procedures employed prior to submission of the dispute to arbitration. The final decision may be made in different ways that are often outlined in the state laws. The arbitrator(s) may select the last best offer of one of the parties as the final decision. He/she may pick and choose last-best-offer items from both parties' final proposals to make up the final package. Or he/she may make an independent decision on settlement.

"Advisory" arbitration decisions are misnamed — the nature of arbitration is binding. Voluntary binding arbitration takes place by agreement of both parties. Restricted arbitration means that specific parts of an arbitration decision may not be binding, i.e., cost items. Compulsory binding arbitration may be imposed on the parties by law or by agency decision, and is used most often in the public arena for police and fire personnel, who are prohibited from striking.

Strikes are Always Restricted, as Follows:

Alaska's public Employment Relations Act, which covers postsecondary personnel and K-12 personnel that are employed in state institutions or regional educational attendance areas provides that these employees may strike for limited periods of time determined by the interests of the health, safety or welfare of the public. Strikes may be enjoined if such public interest is threatened. Strikes may occur only after mediation has been attempted and only if a majority of the employees in a unit vote to do so. If the conditions of impasse continue after a strike has been enjoined, the matter must be submitted to compulsory arbitration. Employees of local school boards bargain under a separate law that is silent on the right to strike.

Hawaii's Public Employee Law, which covers both K-12 and postsecondary personnel, grants strike rights to employees who are in a recognized certified unit that is not required to employ binding arbitration in lieu of a strike (police and fire, for example). Such strikes may occur after the dispute resolution processes have been exhausted, after proceedings for prevention of unfair practices have been exhausted, 60 days after the publication of fact-finding recommendations, and after submitting a 10-day notice of intent to strike. Illegal strikes may be enjoined.

Minnesota's Public Employment Labor Relations Act, which covers both K-12 and postsecondary personnel, grants strike rights to personnel who are *other than* confidential, essential, managerial and supervisory, principals and assistant principals, under certain circumstances. The collective bargaining agreement must have expired, or impasse must have been declared, mediation must have been conducted over at least 45 days, notice of intent to strike must have been served 10 days in advance; a request for binding arbitration must have been rejected, or the employer must have committed an unfair practice.

Montana's Public Employee Law is silent on the right to strike, and personnel have been granted the right to strike by 1974 supreme court decision.

Oregon's Public Employee Law, which covers both K-12 and postsecondary personnel, grants strike rights to employees who are in a recognized certified unit that is not required to employ binding arbitration in lieu of a strike. Such strikes may occur after the dispute resolution process has been exhausted, after proceedings for prevention of unfair practices have been exhausted, 30 days after fact-finding recommendations have been made public. Strikes that are determined to create a "clear and present danger to the health, safety or welfare of the public" may be enjoined, after which the dispute must be submitted to binding arbitration within 10 days.

Pennsylvania's Public Employee Labor Relations Act, which covers both K-12 and postsecondary personnel, grants strike rights to employees after mediation procedures have been exhausted. Strikes that are determined

to create "a clear and present danger or threat to the health, safety or welfare of the public" may be enjoined. Unfair practice charges are not a defense to a prohibited strike.

Vermont's Labor Relations Act for Teachers is obscure in its treatment of strike rights, but has been interpreted as permissive. The act prohibits injunctions unless "the action poses a clear and present danger to a sound program of school education which in the light of all relevant circumstances it is in the best public interest to prevent."

Wisconsin's Municipal Employment Relations Act, which covers K-12 and community college personnel, grants strike rights to employees other than police and fire who are members of a recognized certified unit that has approved the strike. Strikes may occur after exhaustion of mediation-arbitration procedures, after the arbitrator has declared his intent to impose binding arbitration, after both parties have withdrawn their final offers, and after 10 days notice. Strikes may be enjoined.

Appendix B

Glossary

- Agency Shop:** This term is used when employees who are not members of an employee organization, but who are represented by it during the bargaining process and in the administration of a bargained agreement, are required to pay a service fee to the organization.
- Arbitration:** A procedure whereby parties unable to agree on a solution to a problem (i.e., at impasse in a contract negotiation or a grievance procedure) will be bound by the decision of a third party.
- Bargaining Unit:** A group of employees organized as a single unit and having the right to bargain, through their designated representative(s), with the employer.
- Certificated/
Certified Employee:** As the term applies to education: a teacher, supervisor, principal or other administrator who must hold a state certificate in order to be employed in the profession.
- Certification:** As the term applies in the recognition process: designation, by an authorized person or agency, of the employee organization representing a bargaining unit as an "exclusive representative" for bargaining purposes.
- Classified Employee:** For the purposes of the chart in this book, a classified employee is one who is below the rank of teachers, i.e., food employees, bus drivers, clerks, maintenance personnel, etc. Not to be confused with state-level classified employees; i.e., civil service positions that may be "classified" from bottom to top.
- Community of Interest:** As used in determining an appropriate bargaining unit: similar work, interests, salaries, concerns, etc.
- Conciliation** See *Mediation*.
- Contract:** A written agreement on terms and conditions of employment arrived at through the bargaining process. Also *Memorandum of Agreement*, *Memorandum of Understanding*.
- Court Review** The means through which a court of appropriate jurisdiction may consider and rule upon actions or findings of a labor relations board or other involved agency or individual.
- Decertification:** The withdrawal of authorization as an exclusive representative from an employee organization. May occur

when another employee organization successfully challenges the qualifications of the first organization, or as a penalty for violation of law, rule or regulation.

Dues Checkoff:

Deduction of employee organization dues from member's paychecks for remission to the organization treasury. Some state laws do not permit this practice; others do. When permitted, the dues deduction procedure often is negotiated as part of the contract between employer and employee bargaining unit.

Employee Organization:

A group of similar employees organized for the purpose of bargaining their salaries, wages and terms and conditions of employment with their employer. Most teacher organizations are affiliated with the National Education Association or the American Federation of Teachers. Often used interchangeably with *union* in the area of labor relations.

Exclusive Representation:

An employee organization has exclusive representation when it is recognized by the employer, for bargaining purposes, as the sole representative of the kinds of employees who are members of the bargaining unit.

Fact-Finding:

The process of gathering and analyzing accurate facts, information and testimony to be used as a basis for recommendations for the resolution of a bargaining impasse or grievance charge.

Fair Share Fee:

An amount proportionate to members' dues in an employee organization that is paid to the organization by non-members who are, nevertheless, represented by the organization in a bargaining relationship. Such non-members are a part of the bargaining unit, but not of the employee organization that represents them. A form of service fee, based on the proportion of dues that is directly related to the services the non-member employee receives from the organization. Often negotiated.

Grievance:

An allegation by an employee or by the employee organization that the employer or one of its agents, often in the process of implementing a contract, is guilty of misapplication, misinterpretation or violation of one or more specific provisions of the existent contract.

Impasse:

That stage in negotiations at which two parties are, or appear to be, unable to achieve agreement on the issues still on the bargaining table. There is an apparent lack of agreement among state laws and among state labor relations personnel as to the point at which impasse occurs: when mediation has failed, or when fact-finding has failed.

Impasse Resolution:

A process aimed at resolving disagreements that occur during the bargaining of a contract. Three steps may be.

but are not necessarily, involved: mediation, fact-finding, and arbitration. Also known as interest resolution.

- Injunctive Relief:** An order by a court to perform or cease to perform a specific activity.
- Interest Resolution:** *See Impasse Resolution.*
- Intervention/
Intervenor:** A challenge to an employee organization's right to be an exclusive representative for a bargaining unit. May be issued by a competing organization or one or more employees. Most state laws limit the times for such intervention to specific points in the establishment of a bargaining relationship, during or after the term of a contract.
- Legislative Body:** A policy-making body that has the authority to levy taxes and/or make appropriations.
- Maintenance of
Membership:** A requirement that employees who are members of an employee organization that has been certified as an exclusive representative remain members during the term of a bargained contract.
- Management Rights:** Certain rights, privileges, responsibilities and authority requisite to the conduct of an enterprise by its management.
- Mediation:** That form of impasse resolution (usually implemented first) in which a third party meets with the two parties involved in the dispute, together and/or separately, in order to perform a catalytic function in an effort to help the parties reach an agreement.
- Memorandum of
Agreement:** *See Contract.*
- Memorandum of
Understanding:** *See Contract.*
- Middle Management:** For the purposes of the chart in this book, the term encompasses personnel from supervisors to a level just below top management.
- Nonprofessional
Employee:** Most often, a lower-level employee whose work is routine, the performance of which is not dependent on specialized education at the postsecondary level or equivalent experience.
- Organizational
Security:** *See Union Security.*

Professional Employee:

Most often, a higher-level employee whose work is not routine or measurable, the performance of which is dependent on specialized education at the postsecondary level or equivalent experience.

Recognition:

The accomplishment of the status, by the employee organization with the employer, of collective bargaining agent for a unit of defined extent.

Representation Election:

An election held to identify an appropriate employee organization as the exclusive representative of employees in a defined bargaining unit. The employee organization receiving a majority of votes is the winner.

Scope of Bargaining: Bargainable items—the limits, if any, of the appropriate subject matter for bargaining. If such are not set by law, they are determined by the interaction at the bargaining table. If there is not agreement on the scope of bargaining, decisions may be made by a public employment relations board, other administering agency, individual or by an appropriate court.

Service Fees:

A sum of money paid to the bargaining unit by non-member employees who are, nevertheless, represented by the bargaining unit. Some state laws permit these fees; other do not. Service fees may be equal to a unit member's regular dues; they may be a certain percentage of these dues; they may be equal to that portion of membership dues that are used to cover the expense of negotiating and administering a contract. In some states, non-members represented by a negotiating unit who have valid religious objections to the payment of service fees to an organized bargaining unit may be granted an exemption from the requirement; or their service fee may be remitted to an appropriate charity.

Showing of Support/Interest:

Submission of evidence by an employee organization wishing to represent a bargaining unit that it has adequate support/interest/membership from personnel in the bargaining unit. This may be in the form of signature cards, petition signatures, etc.

Strike:

A concerted work stoppage, usually used as an effort at the time of impasse to accomplish a contract on terms acceptable to the union.

Supervisor:

An individual who, using independent judgment, directs other employees and has a voice in their employment, reward, discipline, dismissal and grievances.

Union:

An employee organization that has as one of its purposes the bargaining of terms and conditions of em-

ployment with an employer. In this book, used interchangeably with *Employee Organization*.

Union Security: A blanket term for rights, granted to a union by law or agreement, that reinforce its position as exclusive representative. Dues deduction and service fees are forms of union security, as are specified periods of time during which the union's standing as exclusive representative may not be challenged.

Union Shop: This term applies when an employee is required under the terms of a bargained agreement to become a member of the bargaining unit within a short time after initial employment in order to retain the job. Membership must be maintained during the term of the bargained agreement. In rare cases, union shops are permitted under state law.

Unit Determination: The process of deciding which employees will be in a proposed bargaining unit. Criteria for determination include community of interest, practicality. In some states, units are specifically defined by law.

Unit Modification: A change in the composition (kinds of employees) of a bargaining unit.



Education Commission of the States

The Education Commission of the States is a nonprofit organization formed by interstate compact in 1966. Forty-eight states, American Samoa, Puerto Rico and the Virgin Islands are now members. Its goal is to further a working relationship among governors, state legislators and educators for the improvement of education. This report is an outcome of one of many commission undertakings at all levels of education. The commission offices are located at Suite 300, 1860 Lincoln Street, Denver, Colorado 80295.

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