

**§1464-A. Collective bargaining in alternative organizational structures**

**1. Assumption of obligations, duties, liabilities and rights.** On and after the operational date of an alternative organizational structure, teachers and other employees whose positions are transferred from a school administrative unit or school union to the alternative organizational structure and were included in a bargaining unit represented by a bargaining agent continue to be included in the same bargaining unit and represented by the same bargaining agent pending completion of the bargaining agent and bargaining unit merger procedures and bargaining for initial alternative organizational structure collective bargaining agreements covering alternative organizational structure employees, as described in this section. After employees become employees of the alternative organizational structure, the alternative organizational structure has the obligations, duties, liabilities and rights of a public employer pursuant to Title 26, chapter 9-A with respect to those employees. [PL 2009, c. 580, §8 (NEW).]

**2. Structure of bargaining units.** All bargaining units of alternative organizational structure employees must be structured on an alternative organizational structure-wide basis. Teachers and other school employees who are employed by the alternative organizational structure to provide consolidated services must be removed from the existing bargaining units of teachers and other employees who are employed by each member school unit and merged into units of alternative organizational structure employees. Merger into alternative organizational structure-wide bargaining units is not subject to approval or disapproval of employees. Formation of alternative organizational structure-wide bargaining units must occur in accordance with this subsection.

A. In each alternative organizational structure, there must be one unit of teachers if any teachers are employed by the alternative organizational structure, and, to the extent they are on the effective date of this paragraph included in bargaining units, other certified professional employees, excluding principals and other administrators. [PL 2009, c. 580, §8 (NEW).]

B. Any additional bargaining units in an alternative organizational structure must be structured as follows.

(1) In the initial establishment of such units, units must be structured primarily on the basis of the existing pattern of organization, maintaining the grouping of employee classifications into bargaining units that existed prior to the creation of the alternative organizational structure and avoiding conflicts among different bargaining agents to the extent possible.

(2) In the event of a dispute regarding the classifications to be included within an alternative organizational structure-wide bargaining unit, the current bargaining agent or agents or the alternative organizational structure may petition the Maine Labor Relations Board to determine the appropriate unit in accordance with this section and Title 26, section 966, subsections 1 and 2. [PL 2009, c. 580, §8 (NEW).]

C. When there is the same bargaining agent in all bargaining units that will be merged into an alternative organizational structure-wide bargaining unit, the units must be separated and merged on the operational date or the date represented employees are transferred to the alternative organizational structure, whichever is applicable, and the alternative organizational structure shall recognize the bargaining agent as the representative of the merged unit. [PL 2009, c. 580, §8 (NEW).]

D. When all bargaining units that will be separated and merged into an alternative organizational structure-wide bargaining unit are represented by separate local affiliates of the same state labor organization, the units must be separated and merged on the operational date or the date represented employees are transferred to the alternative organizational structure, whichever is applicable. The identity of a single affiliate that will be designated the bargaining agent for the merged unit must be selected by the existing bargaining agents and the state labor organization. Upon completion of

the merger and designation of the bargaining agent and notification by the state labor organization to the alternative organizational structure, the alternative organizational structure shall recognize the designated bargaining agent as the representative of employees in the merged unit. If necessary, the parties shall then execute a written amendment to any collective bargaining agreement then in effect to change the name of the bargaining agent to reflect the merger. [PL 2009, c. 580, §8 (NEW).]

E. When there are bargaining units that will be separated and merged into an alternative organizational structure-wide bargaining unit in which there are employees who are not represented by any bargaining agent and other employees who are represented either by the same bargaining agent or separate local affiliates of the same state labor organization, the units must be separated and merged on the operational date or the date represented employees are transferred to the alternative organizational structure, whichever is applicable, as long as a majority of employees who compose the merged unit were represented by the bargaining agent prior to the merger. The procedures for separation and merger of separate local affiliates of the same state labor organization described in paragraph D must be followed if applicable. If prior to the merger a bargaining agent did not represent a majority of employees who compose the merged unit, a bargaining agent election must be conducted by the Maine Labor Relations Board pursuant to paragraph F. [PL 2009, c. 580, §8 (NEW).]

F. When bargaining units with different bargaining agents must be merged into a single alternative organizational structure-wide bargaining unit pursuant to this section, the bargaining agent of the merged bargaining unit must be selected in accordance with Title 26, section 967 except as modified in this section.

- (1) A petition for an election to determine the bargaining agent must be filed with the Maine Labor Relations Board by any of the current bargaining agents or the alternative organizational structure.
- (2) The petition must be filed not more than 90 days prior to the first August 31st occurring after either the 3rd anniversary date of the operational date of the alternative organizational structure or the date on which positions are transferred from member school units to the alternative organizational structure, whichever is later.
- (3) The election ballot may contain only the names of the bargaining agents of bargaining units that will be merged into the alternative organizational structure-wide bargaining unit and the choice of "no representative," but no other choices. A showing of interest is not required from any such bargaining agent other than its current status as representative.
- (4) The obligation to bargain with existing bargaining agents continues from the operational date of the alternative organizational structure or the date on which positions are transferred from member school units to the alternative organizational structure, whichever is later, until the determination of the bargaining agent of the alternative organizational structure-wide bargaining unit under this section; but in no event may any collective bargaining agreement that is executed after the operational date extend beyond the first August 31st occurring after either the 3rd anniversary date of the operational date of the alternative organizational structure or the date on which positions are transferred from member school units to the alternative organizational structure, whichever is later.
- (5) The Maine Labor Relations Board shall expedite to the extent practicable all petitions for determination of the bargaining agent in the alternative organizational structure filed pursuant to this section.
- (6) The bargaining units must be merged into an alternative organizational structure-wide bargaining unit as of the date of certification of the results of the election by the Maine Labor

Relations Board or the expiration of the collective bargaining agreements in the unit, whichever occurs later.

(7) Until the first August 31st occurring after either the 3rd anniversary date of the operational date of the alternative organizational structure or the date on which positions are transferred from member school units to the alternative organizational structure, whichever is later, existing bargaining agents shall continue to represent the bargaining units that they represented on the day prior to the operational date of the alternative organizational structure. If necessary, each bargaining agent and the alternative organizational structure must negotiate interim collective bargaining agreements to expire the first August 31st occurring after either the 3rd anniversary date of the operational date of the alternative organizational structure or the date on which positions are transferred from member school units to the alternative organizational structure, whichever is later.

(8) When there are 2 or more bargaining units in which there are employees who are represented either by the same bargaining agent or by separate local affiliates of the same state labor organization that will be merged into an alternative organizational structure-wide bargaining unit with one or more other bargaining units pursuant to the election procedures described in this paragraph, the bargaining units that are represented either by the same bargaining agent or by separate local affiliates of the same state labor organization must merge as of the operational date. The procedures for merger of separate local affiliates of the same state labor organization described in paragraph D must be followed if applicable. [PL 2009, c. 580, §8 (NEW).]

[PL 2009, c. 580, §8 (NEW).]

**3. Agent to engage in collective bargaining.** After the merger of bargaining units in an alternative organizational structure, the bargaining agent of an alternative organizational structure-wide bargaining unit and the alternative organizational structure shall engage in collective bargaining for a collective bargaining agreement for the alternative organizational structure-wide bargaining unit. In the collective bargaining agreement for each alternative organizational structure-wide bargaining unit, the employment relations, policies, practices, salary schedules, hours and working conditions throughout the alternative organizational structure must be made uniform and consistent as soon as practicable. In the event that the parties are unable to agree upon an initial alternative organizational structure-wide collective bargaining agreement, the parties must use the dispute resolution procedures pursuant to Title 26, section 965 to resolve their differences.

[PL 2009, c. 580, §8 (NEW).]

**4. Application of collective bargaining agreements.** On and after the operational date of an alternative organizational structure, but before the completion of negotiations for a single alternative organizational structure-wide collective bargaining agreement for the alternative organizational structure-wide bargaining unit, the wages, hours and working conditions of an employee of the alternative organizational structure who is in a bargaining unit and who is reassigned to a different position that is in a different bargaining unit but that upon the completion of the merger of bargaining units will be included in the same alternative organizational structure-wide bargaining unit must be determined by the terms of the collective bargaining agreement that applies to the position to which the employee is reassigned, except as provided in this subsection.

A. If the application of the collective bargaining agreement that applies to the position to which the employee is reassigned would cause a reduction in the employee's wage or salary rate, the employee's wage or salary rate must be maintained at the rate the employee was paid immediately prior to the reassignment until the completion of negotiations for a single alternative organizational structure-wide collective bargaining agreement for the alternative organizational structure-wide bargaining unit or the applicable collective bargaining agreement requires a higher wage or salary rate for the employee, whichever occurs sooner. [PL 2009, c. 580, §8 (NEW).]

B. If the application of the existing collective bargaining agreement that applies to the position to which the employee is reassigned would cause a reduction in the amount that is paid by the alternative organizational structure for premiums for health insurance for the employee and the employee's dependents, the alternative organizational structure's payment must be maintained at the amount that was paid immediately prior to the reassignment until the completion of negotiations for a single alternative organizational structure-wide collective bargaining agreement for the alternative organizational structure-wide bargaining unit or the applicable collective bargaining agreement requires a higher payment, whichever occurs sooner. [PL 2009, c. 580, §8 (NEW).]

C. If the application of the existing collective bargaining agreement that applies to the position to which the employee is reassigned provides for coverage under a different health insurance plan, the employee may elect to retain coverage under the health insurance plan in which the employee was enrolled immediately prior to reassignment if the eligibility provisions of the plan permit until the completion of negotiations for a single alternative organizational structure-wide collective bargaining agreement for the alternative organizational structure-wide bargaining unit. [PL 2009, c. 580, §8 (NEW).]

[PL 2009, c. 580, §8 (NEW).]

#### SECTION HISTORY

PL 2009, c. 580, §8 (NEW).

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