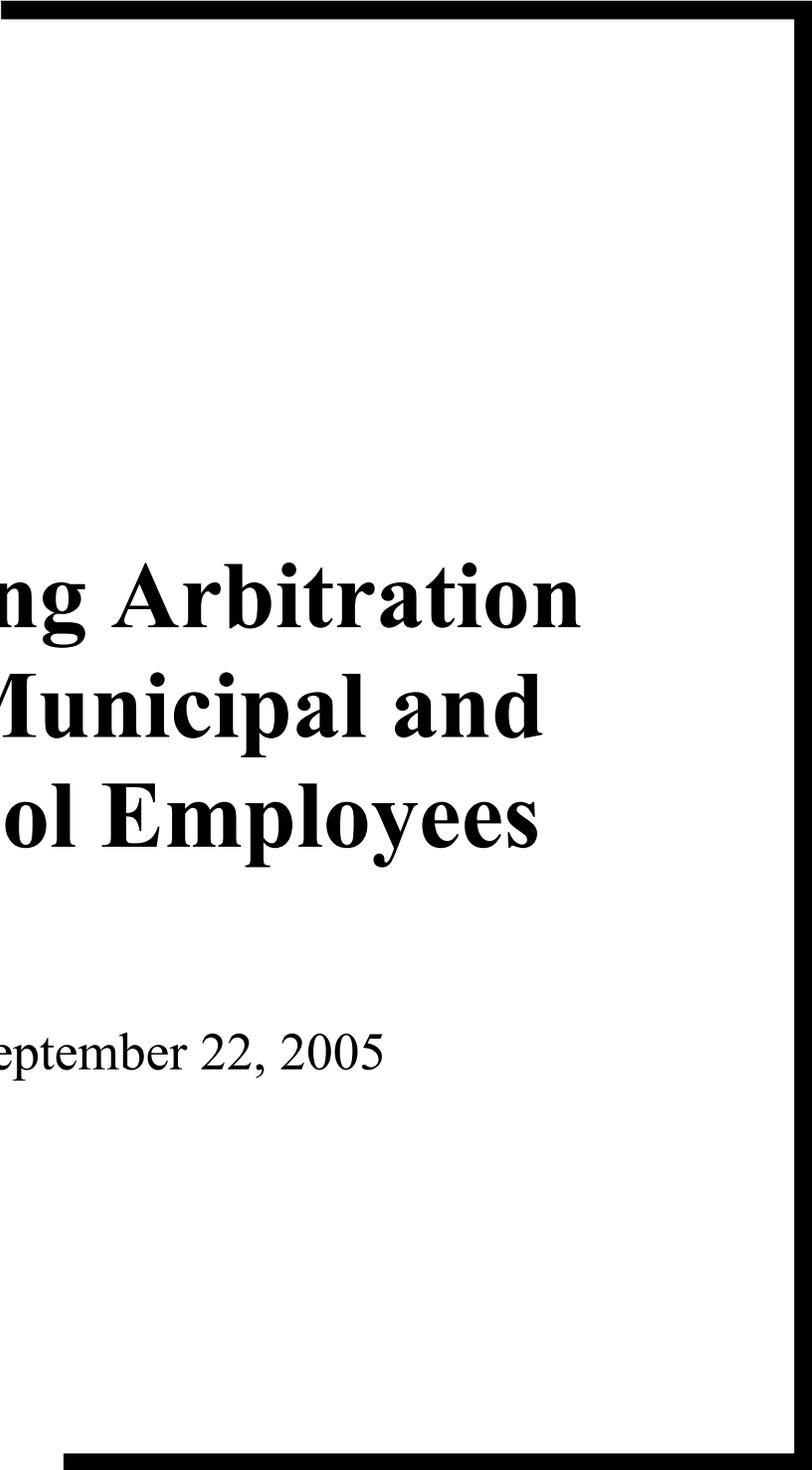


Staff Briefing



**Binding Arbitration
for Municipal and
School Employees**

September 22, 2005

Introduction

The state legislature has recognized the right for teachers, administrators, and municipal employees to organize and collectively bargain with their employers since the 1960s. At that time, separate laws were enacted governing the collective bargaining process for teachers and administrators employed by boards of education, and for municipal employees, including non-certified school staff. (Full descriptions of the Teachers Negotiation Act (TNA) and the Municipal Employee Relations Act (MERA) are provided in Sections 1 and 2 of this report.

The use of strikes as a vehicle for ending impasse in the collective bargaining process is prohibited under both TNA and MERA. The theory behind not allowing strikes in the public sector is that such work stoppages may jeopardize public health and safety. This is not to say strikes did not occur when parties were at impasse, but their prohibition under state law has been clear since the late-1960s.

Over the years, several alternative ways to resolve employer/employee contract disputes at the municipal level if negotiations fail have developed, including mediation, factfinding, and arbitration. The goals of each process are to achieve labor/management accord, avoid protracted contractual impasse, and provide alternatives to strikes.

Under mediation, consensus building leading to resolutions of labor disputes is facilitated through the use of a neutral third party. Factfinding, although eliminated in Connecticut in 1992, uses one or more independent “factfinders” to identify the factual differences between parties and to offer non-binding resolutions to help the parties reach agreement. Broadly speaking, arbitration uses a neutral arbitrator to determine solutions to parties’ differences that may or may not be binding on the parties.

Connecticut uses a form of binding arbitration called “last best offer, issue-by-issue,” to settle labor impasse. Introduced under MERA in 1975 and under TNA in 1979, the process is based on parties submitting their last best offers on each disputed issue to either a single arbitrator or to a tripartite panel (tripartite panels include a neutral arbitrator and one advocate arbitrator for each party). The general concept behind this type of binding arbitration is that it forces the parties to make “reasonable” offers on each issue under dispute because of the risk that the arbitrator(s), who can only choose from the parties’ offers, will not select an unreasonable one.

There are several similarities between TNA and MERA. A primary link between the two laws is that the resulting contracts are funded through municipal budgets. The collective bargaining processes outlined in the two laws also use the same form of binding arbitration as their final dispute resolution method.

While other similarities exist between the two laws and how they operate, there are also very significant differences. One such difference is that TNA has mandatory deadlines under which the collective bargaining process is to occur, while timeframes and other statutory provisions under MERA may be modified, deferred, or waived by mutual agreement of the parties. The process used to make appointments to the panel of neutral arbitrators also differs

significantly between the two acts. TNA requires gubernatorial approval and full legislative consent of candidates that have already been screened and then interviewed by committees appointed by the commissioner of education; MERA has a more streamlined process that requires a neutral arbitrator selection committee to unanimously approve a candidate.

Situations in which arbitrating parties reach full agreement prior to completion of arbitration hearings are also treated differently under TNA and MERA. MERA considers such stipulations as “negotiated agreements” between the parties, while TNA requires such agreements become part of a “stipulated arbitration award.”

Opportunity for rejection of a negotiated or mediated agreement or arbitrated award by the local legislative body also differs under the two acts in several ways. First, TNA does not provide for local review of stipulated awards because technically no last best offer(s) is chosen by an arbitrator. Under MERA, any arbitrated award is subject to review by the local legislative body. Second, MERA does not provide an opportunity for rejection of negotiated or mediated agreements where the municipal employer is a board of education or local authority, such as a housing authority.

While the ultimate focus of this study is not a comparison of TNA and MERA, it is important to recognize their similarities and differences, as the differences in particular, may lead to different impacts on a municipality’s budget. A more detailed synopsis of the similarities and differences between the two acts is highlighted in Section 3 of the report.

Study Focus

Advocates of binding arbitration argue the process resolves collective bargaining impasses in a fair and timely manner. It adds finality to the contract negotiation process, while balancing contractual conditions with the public interest and financial capability of municipalities and school districts. Opponents of binding arbitration maintain the current statutory criteria used by arbitrators are vague, and the process limits the review capacity of the local legislative authority in that it effectively turns over local budgets to arbitrators who are not town residents.

The Legislative Program Review and Investigations Committee directed its staff to begin a study of binding arbitration for municipal and school employees in April 2005. The study is focusing on whether the binding arbitration processes used under the Teacher Negotiation Act and the Municipal Employee Relations Act achieve their intended purposes of resolving contractual impasse in a timely and efficient manner and according to statutory criteria. The study is also examining the overall financial impact binding arbitration has on local budgets, although the ability to isolate the influence of binding arbitration alone may not be possible. Most parties recognize that binding arbitration, while used in only a small number of contracts, looms over contract negotiations as something to avoid, if possible, which can impact outcomes.

To date, committee staff utilized various sources of information. Staff has interviewed the commissioners of the education and labor departments along with their respective administrative staff, neutral and advocate arbitrators, employee representatives, school superintendents, town managers and finance staff, and various associations. Additional

interviews with arbitrators and interested parties will continue as the study progresses. State statutes, regulations, and relevant court cases have been reviewed, as have several arbitration awards. Committee staff has also consulted the book, *A Practical Guide to Connecticut School Law*¹ for pertinent information.

The study is scheduled to conclude with findings and recommendations, if pertinent, presented by staff to the committee in December 2005. This interim report provides background information relevant to the study, including detailed descriptions of the statutory requirements for both TNA and MERA and preliminary data on collective bargaining outcomes from both these acts. A more detailed analysis of binding arbitration, including analysis of awards for content, format, and a determination of how well statutory criteria were considered and applied in the awards, will be included in the December 2005 report.

¹ Thomas B. Mooney, *A Practical Guide to Connecticut School Law* (Wethersfield, CT: Connecticut Association of Boards of Education, Inc., 2004).

Section 1: Teacher Negotiation Act

Background

The Connecticut Supreme Court first recognized the right of public sector teachers to organize and bargain over pay and working conditions in 1951. Negotiations could take place as long as a local board of education did not enter into an agreement whereby it would surrender its legal discretion, was contrary to law, or was beyond the board's legal authority. These basic tenets continue to hold true.

A decade later, the legislature allowed educators to join unions for the purpose of collective bargaining and, in 1965, passed the Teacher Negotiation Act (TNA). The act is the main body of state law pertaining to the collective bargaining rights for public school professional staff, teachers, and school administrators. At its inception, TNA permitted mediation and advisory, nonbinding arbitration as the chief means for resolving negotiation impasse.

TNA was amended in 1969 to allow teachers and administrators to negotiate as two separate bargaining units, should they so choose. The legislature also amended the law at that time to prohibit employee strikes for any reason. Additional changes gave local legislative bodies the right to reject negotiated contracts, and developed an arbitration panel from which advisory arbitrators must be chosen.

General oversight of the Teacher Negotiation Act became the role of the State Board of Labor Relations in 1976. The board was given authority to promulgate regulations and enforce collective bargaining statutes. The board also served as the body responsible for enforcing fair labor practices and good-faith collective bargaining efforts by parties throughout the state. Additional legislation in 1976 provided statutory timeframes for negotiations and required school board members to meet and confer with the town's fiscal authority prior to the start of negotiations. Although the statute is silent as to the purpose of the meeting, it is presumably to clarify the respective fiscal positions of the board and the town and to share information about the upcoming negotiations.

A major change to the Teacher Negotiation Act occurred in 1979, when last best offer, issue by issue binding arbitration was implemented. Coming on the heels of 55 teachers' strikes since 1965, and culminating with a strike in Bridgeport in 1978 in which several hundred teachers were jailed for violating the state law barring strikes by public employees, the legislature strengthened the current dispute resolution process, making it a more viable option than strikes. Specifically, arbitration decisions were now legally binding on the parties, rather than advisory, and the Department of Education was made responsible for overseeing and administering the new binding arbitration system.

Under the new binding arbitration system, parties were now required to submit a "last best offer" for each issue not settled through negotiation or mediation. By requiring an impasse resolution mechanism that was binding on the parties, rather than advisory, the new system was

seen by many as a way to bring “finality” to the collective bargaining process without having to resort to strikes. It is important to note that in this regard binding arbitration has succeeded because there have been no strikes, either by teachers or administrators, since the inception of binding arbitration under TNA in 1979.

Scope and Roles

Employees Covered

The collective bargaining rights and responsibilities, including binding arbitration, defined under the Teacher Negotiation Act cover all “certified” professional staff within a school district. Certified staff either belong to the “teachers unit” or the “administrators unit” for collective bargaining purposes. The teachers unit includes those employees working within a local or regional school district in positions requiring a teaching certificate or a durational shortage area permit issued by the State Board of Education².

Employees within the administrators unit are also covered by TNA, and include those certified employees within a school district working in positions requiring an intermediate administrator or supervisor certificate. The administrative or supervisory duties of such staff must account for at least 50 percent of an employee’s assigned time.

Staff working within a school system who are not part of the teachers unit or administrators unit are not covered under TNA. Although the employees work within a school and bargain with the school board rather than the town or city, their collective bargaining rights are covered under the Municipal Employee Relations Act, as fully described in Section 2. Examples of non-certified staff include, school nurses, para-professionals, clerical staff, custodians, and aides.

The Teacher Negotiation Act further excludes certain school district staff from purview of the act. Such employees include: 1) the superintendent of schools; 2) assistant superintendents; 3) certified professional employees who act for the board of education in negotiations with certified professional staff or who are directly responsible to the board for personnel relations or budget preparation; 4) temporary substitutes; and 5) all non-certified employees of the board.

Local and Regional Boards of Education

Among other responsibilities, local (and regional) boards of education function as “the employer” within a school district and represent the district during the collective bargaining process. Education boards, however, typically hire outside counsel to represent their interests during contract negotiations, personnel issues, and grievance proceedings. Boards also hire “advocate attorneys” to serve on arbitration panels to represent boards’ interests during arbitration proceedings. The public school boards’ professional group, the Connecticut Association of Boards of Education (CABE) functions as an advocate and information resource for its members. CABE has a membership of 151 boards throughout the state.

² A durational shortage area permit extends a teacher’s certification period to address a personnel shortage in a particular district.

State Role

- **Department of Education.** The state education department, through the commissioner, is responsible for the administration of binding arbitration under TNA. One staff attorney within the department oversees the process as part of her overall responsibilities within the department. An assistant, as part of her duties, is responsible for tracking the key dates within the process, including contract expiration dates, budget submission dates, and the dates when the negotiation, mediation, and arbitration phases must begin. The assistant is also responsible for communicating with the various towns/school districts throughout the state, communicating with arbitrators, and maintaining a limited database for the binding arbitration process.
- **State Board of Education.** The State Board of Education oversees Connecticut's school systems from the state perspective. Among its varied responsibilities, the board issues teacher certifications through the education department. Within the binding arbitration process, the board is responsible for recommending names of arbitrators to the governor for appointment to the arbitrator panels maintained by the Department of Education.
- **State Board of Labor Relations.** The State Board of Labor Relations, within the Department of Labor has chief responsibility under the act for certifying organizations that represent the covered employees, hearing complaints (regarding unfair or prohibited labor practices or breach of duty of fair representation), and ensuring parties bargain in good faith.

Employee Representatives

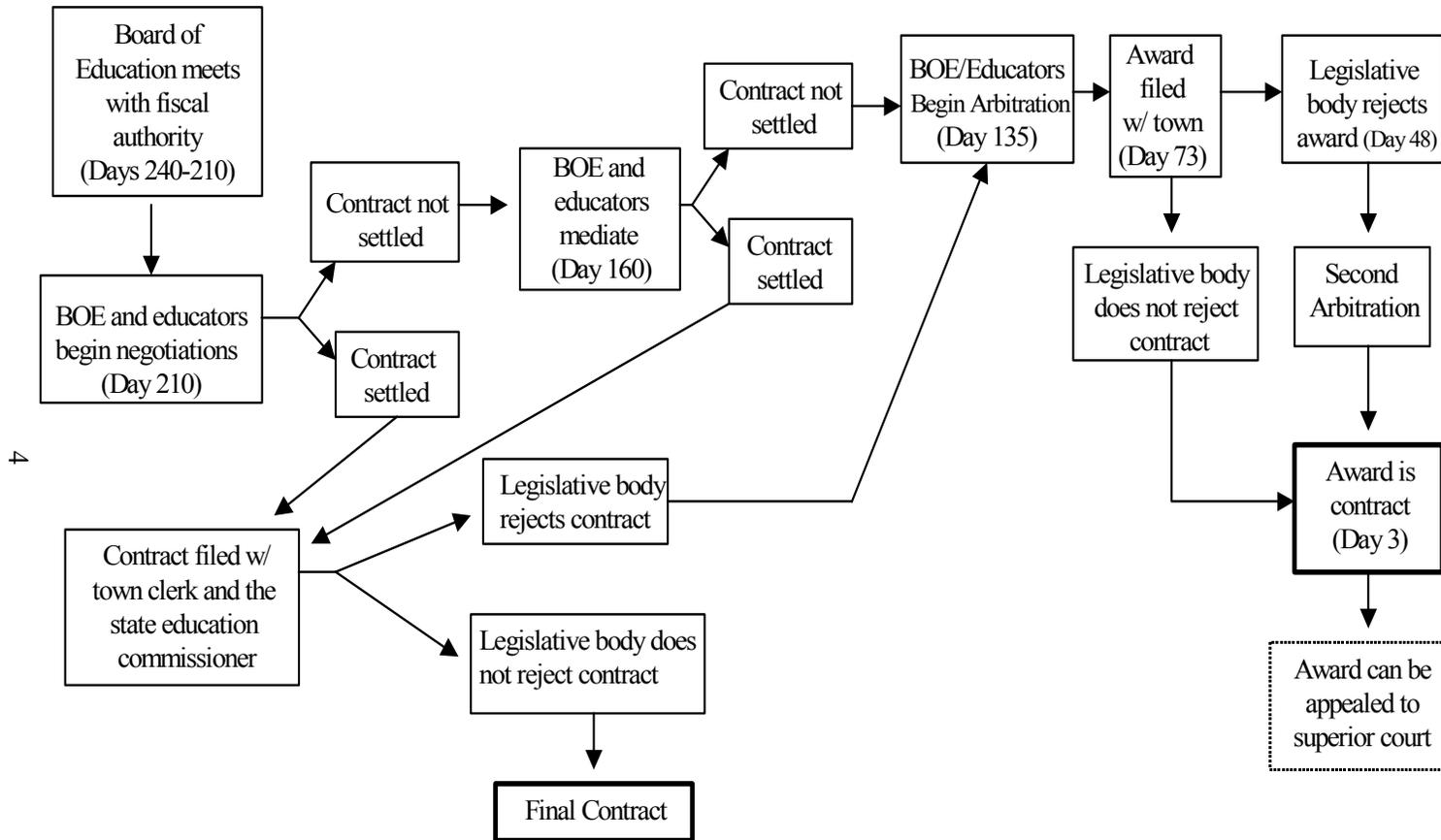
Professional labor organizations represent certified school employees within the collective bargaining process under TNA. In Connecticut, two unions (the Connecticut Education Association and the American Federation of Teachers-Connecticut) represent employees within the “teachers unit.”

For the most part, employees within the “administrators unit” of a particular school district represent themselves for collective bargaining purposes, although a statewide school administrators’ organization works with various administrator units around the state. Similar to boards of education, both types of employee groups may hire outside counsel (i.e., advocate attorneys) to represent their interests during arbitration.

Collective Bargaining Process

Figure I-1 illustrates the current collective bargaining process for teachers and administrators, noting the statutory timeframes for all steps, including binding arbitration. The statute defines when the various phases leading up to, and including, arbitration are to occur. This structure was devised, in part, as a way that guarantees teacher and administrator contracts would be settled prior to the start of a given school year, and in coordination with a town’s budget-making deadline.

Figure I-1. Teacher Negotiation Act: Collective Bargaining Process



* Indicates "Calendar days prior to town budget submission date."

Note: Parties may "stipulate" to a contract agreement prior to second arbitrator's ruling and the resulting agreement becomes the arbitrated award, but is not reviewable by the town.

Source: Department of Education and LPR&IC staff.

Pre-Negotiations

State law requires a pre-negotiations meeting between the board and the fiscal authority occur not less than 240 days prior to the budget submission date. The budget submission date is the date set by each town as to when a school district is to submit its estimated operating budget for the upcoming year to the town's fiscal authority.

Figure I-1 shows the board of education is required to meet and confer with the town's fiscal authority within 30 days prior to the start of contract negotiations between the board and employee representative.

Negotiations

Representatives of the board of education and the respective bargaining unit are required to begin negotiations on hours, wages, and other conditions of employment not less than 210 calendar days prior to the budget submission date. A member of the local fiscal authority is also permitted to be present at negotiations and must provide fiscal information if requested by the board of education. In the case of a regional school district, each town within the region is involved in the various phases of the process.

From the statutory start of negotiation, the parties have up to 50 days to negotiate a collective bargaining agreement. If a settlement is negotiated, it is typically sent to the respective parties for ratification, although this step is not required by statute. Once ratification occurs, the local education board must file a signed copy of the tentative agreement with the town clerk (or clerks, in the case of a regional school district) and the state education commissioner. The clerk is then required to issue public notice of the filing.

The terms of the contract are binding on the town's legislative body unless the body rejects the agreement.³ The local legislative body has 30 days from when the contract is filed with the town clerk(s) to convene a meeting to consider the contract. Any regional board of education must call a district meeting within the 30-day period to consider the contract if the chief elected officer or any member of the town makes such a request in writing within 15 days of receiving a signed copy of the agreement by the clerk in such town. Rejection of the agreement can only occur if the legislative body votes to "reject" the agreement at a regular or special meeting called within 30 days of when the agreement is filed with the town clerk. If this occurs, arbitration is triggered to resolve the impasse.

State law also allows town residents to petition for a referendum on the tentative agreement. The referendum question can only be on rejecting the contract, and at least 15 percent of the eligible voters in a town or a regional school district are required to vote on the referendum. A majority of those voting is required for approving the referendum (i.e., rejecting the contract.) The actual vote on the referendum must occur within the 30-day period after the contract is filed with the town(s) and if the town rejects the contract, then arbitration commences.

³ Local legislative body can vary depending on town charter.

Contract reopeners. Parties to a collective bargaining agreement may, as part of the agreement, decide to open negotiations on salaries, hours, or other conditions of employment prior to the expiration of the current contract. Commonly referred to as a “contract reopener,” this process is subject to statutory requirements and timeframes. For example, the parties must notify the education commissioner within five days of when contract reopener negotiations have begun. If a settlement is not reached within 25 days of when negotiations begin, the parties must notify the commissioner of a mutually-selected mediator and begin mediation. If no settlement is reached by either the 50th day after negotiations began or the fourth day following the end of mediation, whichever is sooner, arbitration commences.

The Teacher Negotiation Act does not specifically require either a negotiated or mediated contract reopener settlement or an arbitrated contract reopener award to be submitted to the town(s) for approval. The Department of Education, however, has determined that any reopener agreements or awards must go before the respective town(s) for approval. The department bases its interpretation on the fact that state law does not distinguish between contract reopener negotiations and contract expiration negotiations regarding when a copy of an agreement or award must be filed with the town(s) and education commissioner.

Mediation

Under TNA, mediation is a mandatory step prior to arbitration. Mediation is a process whereby a neutral person helps the two parties reach agreement on disputes that were not resolved during the negotiation process. The role of the mediator is to facilitate negotiation between the two parties, trying to bring them closer together on what each side wants.

By law, mediation between the two parties is required if the contract is not settled by the end of the 50-day negotiating period, 160 days before the budget submission date. As shown in Figure I-1, the mediation phase technically begins on the 160th day prior to the budget submission date, although mediation may occur sooner if either party requests. The mediation phase concludes on the 135th day prior to the budget submission date, at which point the arbitration phase begins. The parties, however, are not precluded from mediating (or negotiating) a contract settlement up through the first arbitration hearing (i.e., “the bump and run” hearing, as discussed below.)

Parties must mutually agree on which mediator to use. A panel of mediators approved through the State Board of Education is maintained by the Department of Education. The parties may choose a mediator from that panel or make a selection from outside the panel, if they so agree. In either case, the parties must notify the education commissioner of their selection. If the parties cannot agree on a mediator, they must meet with either the commissioner (or her designee), or the commissioner will appoint a mediator. (See Appendix A for the 2005-06 panel of TNA mediators.)

All discussions held during mediation are confidential and do not become part of the negotiating history should the dispute require arbitration. This is done to maintain the effectiveness of mediation, assuring the parties that their discussions will not be disclosed. Mediation is not binding on the parties and mediators do not have the authority to impose settlements.

Mediators are not required to testify, even if subpoenaed, regarding information discussed during the mediation process. Mediators are also not required to file any report on the mediation proceedings/outcome with either the parties or the Department of Education. The parties, however, are required to provide any information the commissioner may request regarding the mediation. The commissioner may also recommend a settlement based on the information, although it is considered non-binding on the parties.

The TNA panel mediators are professional, private sector mediators approved by the state education board. The parties may also use state mediators, although this is not the current practice with the TNA community.

Private mediators are paid on per-diem rates established by each mediator, for which the parties are equally responsible. Current per-diem rates for mediators and arbitrators typically range between \$800-\$1,400 per six hours of work.

Mediated agreements, similar to negotiated contracts, must be filed with the town clerk by the town representative within 14 days of the date on which the agreement was reached. If, after 30 days, the legislative body of the municipal employer fails to reject the contract, then it is considered final and binding. If the contract is rejected, the arbitration process begins.

On rare occasions, an interesting situation is created if a board of education and an employee organization reach agreement through negotiation or mediation, ratification of the agreement occurs, but the local legislative body rejects the agreement. By law, arbitration commences, however, the parties have already agreed on contract language. At this point, the school board identifies which areas of the rejected contract are not acceptable to the town, and how the issue(s) should be approached in arbitration. Given that the boards of education are autonomous bodies within local government and actually submit the last best offers during arbitration, a board's offer could possibly be the same, or similar to, what was proposed in the original agreement reached during negotiation or mediation but rejected by the legislative body.

Of the neutral arbitrators interviewed by committee staff thus far, each has said that any tentative agreement between the parties prior to arbitration is given additional weight during the arbitration process.

Arbitration

Parties are required to report their contract settlement to the commissioner by the 135th day prior to the budget submission date – or the fourth day following the end of mediation – whichever is sooner. If parties cannot come to agreement on all issues by that time or the town rejects a negotiated or mediated settlement, state law requires that binding arbitration commence. As mentioned, the type of arbitration used in Connecticut is “last best offer, issue by issue.” The

process allows the parties to submit their last best offers for each issue under dispute and arbitrators choose one side's offer for each issue presented.

Arbitration Process

Panel selection. At the time arbitration commences, the parties must notify the education commissioner whether they want to use a three-member panel of arbitrators (i.e., tripartite panel) or a single arbitrator to decide the outstanding issue(s). When a tripartite panel is used, each party chooses an "advocate arbitrator" to represent their interests in the arbitration process. If the parties either fail to decide on a single arbitrator versus a panel, or do not select advocate arbitrators, the commissioner will make the selection(s) on a random basis.

Within five days from when arbitration commences (day 130 prior to the budget submission date), the parties must select a neutral arbitrator through mutual agreement. The neutral arbitrator represents the public in general and is selected from a list of neutral arbitrators maintained by the Department of Education. If the parties are unable to mutually select a neutral, the education commissioner makes the choice using a random selection process. The parties are responsible for paying for their respective advocate arbitrator, and must evenly share the cost of the neutral arbitrator. The neutral arbitrator serves as chairperson whenever a three-member panel is used. As chairperson, the neutral arbitrator is generally responsible for determining the date, time, and location of the arbitration hearing(s) and for writing the actual arbitration award.

Hearing(s). The first arbitration hearing, informally known as the "bump and run," must be held between the fifth and twelfth days from the date the neutral arbitrator is selected. The hearing is held in the school district, and at least five days prior to the first hearing the arbitration chairperson must send written notice of the hearing to the board of education, the employee representative, and each advocate arbitrator if a three-member panel is used. The same notice must also be sent to the local fiscal authority having budgetary responsibility or appropriation-making authority for the school district. The initial hearing is typically used to identify the disputed issue(s) between the parties and to determine the logistics of any future hearings.

If the parties come to a settlement at any time prior to the "bump and run" hearing, the agreement is considered a negotiated agreement reached by the parties. An agreement made after this first hearing starts is considered a "stipulated" agreement and becomes part of an arbitrated award (even if the parties resolve all issues).

Any additional hearing(s) must occur within 25 days of the initial hearing. Hearings are mainly used for the parties to outline their cases to the arbitrator(s). Field representatives for the union represent the teachers in arbitration, while boards of education generally use either outside counsel or a town attorney. Administrator groups may also use outside counsel.

The parties use the hearing process to submit any data and/or exhibits that help promote their position in accordance with specific statutory criteria, as discussed below. The information is typically presented for each issue under dispute. The parties and the arbitrator(s) may also call witnesses to testify during the hearing process. Such witnesses must include a town's fiscal authority to testify regarding the financial capability of the school district, unless the fiscal

authority waives such opportunity to be heard. If the fiscal authority does not appear before the arbitrator(s), it is seen as a waiver to do so unless it is shown the authority was not given proper notice.

Briefs/Last best offers. Parties are required to submit their last best offer(s) to the arbitrator(s) no later than the end of the 25th day of the hearing process. Last best offers are made for each outstanding issue. Parties' last best offers serve as the basis for awards.

Parties may also choose to submit a post-hearing brief. The briefs provide a synopsis of the information presented during the hearing process.

Executive session. Once the hearing phase is concluded within the 25-day period, if an arbitration panel is used, the three members will meet in "executive session" to deliberate. The panel is required to consider the last best offer of each party by issue. Panel members also have for reference: 1) post-hearing briefs filed by the parties; 2) the testimony of any witnesses; and 3) any exhibits submitted as part of a party's case. Although a panel of arbitrators may be used, the neutral arbitrator actually decides the case.

Technically, the hearing phase must conclude by day 93 prior to the budget submission date. By law, the panel has 20 days from the last hearing date to issue an award on each outstanding issue, which takes the process to day 73 prior to the budget submission date.

Criteria. Arbitrators are required to consider the following seven statutory factors during arbitration:

- 1) financial capability of the town(s) in the school district, including consideration of other demands on the financial capability of the town(s) in the school district;
- 2) public interest;
- 3) negotiations between the parties prior to arbitration, including the offers and the range of discussion of the issues;
- 4) interests and welfare of the employee group;
- 5) changes in the cost of living averaged over the preceding three years;
- 6) existing conditions of employment of the employee group and those of similar groups; and
- 7) salaries, fringe benefits, and other conditions of employment prevailing in the state labor market, including the terms of recent contract settlements or awards in collective bargaining for other municipal employee organizations and developments in private sector wages and benefits.

The Teacher Negotiation Act gives priority to two of these criteria – a town’s ability (or inability) to afford any cost increases proposed by the parties and the “public interest.”

In assessing the financial capability criterion, arbitrators must by law make an “irrebuttable presumption” that a budget reserve of five percent or less is not available for paying the cost of any item subject to arbitration. State law requires such budget funds be in an undesignated reserve account, meaning the funds are not earmarked for any specific purpose. Undesignated reserve funds, often referred to as “rainy day” funds, are important to a town’s bond rating.

During discussions with several town managers and fiscal authorities from around the state, it was noted that bond houses typically prefer an undesignated fund balance of between six to eight percent. The bond companies use a municipality’s undesignated fund balance as one measure in determining a town’s bond rating.

One concern brought to committee staff’s attention is the “public interest” criterion and its perceived lack of definition in statute. Some town officials have indicated that the absence of a statutory definition is problematic in that it makes the criterion vague and subject to interpretation by individual arbitrators.

In committee staff discussions with arbitrators to date, all have agreed the criterion cannot, and probably should not, be fully defined within the Teacher Negotiation Act. The arbitrators have said each case has individual merits and it is up to the parties to define public interest as it relates to their particular case. They also concluded that by not having the criterion specifically defined in statute, the parties are given the necessary flexibility to define public interest as it relates to their particular situation. Specifying the parameters of public interest in statute would mitigate the flexibility the parties currently have in putting forth their cases in arbitration. Moreover, it would be difficult to capture the entire meaning of “public interest” in a more formalized statutory definition.

Award. The neutral arbitrator is responsible for writing the actual award based on each last best offer of the parties. When an arbitration panel is used, awards are made based on the majority vote of the panel, although it is the neutral who actually decides the case, assuming the advocate arbitrators side with the respective parties. The advocate arbitrators representing either the board of education or the employee group are required to sign the award, and may provide dissenting opinions if they so choose. Such written dissenting opinions, however, are rare.

Arbitration awards must be issued by the arbitrator(s) within 20 days of the last hearing. Awards must consider each issue put forth by the parties on an individual basis. As such, one “award” will actually address multiple issues if more than one issue is brought to arbitration. Awards must also incorporate an explanation of how the total cost of all offers accepted was considered.

Awards may be rejected by a town’s legislative body, or legislative bodies in the case of a regional school district, if the body decides to consider the award. Such consideration is not required by law, however.

Rejection of an arbitration award must be by a two-thirds majority vote of the body’s members present at a regular or special meeting convened for such purpose. The meeting must

occur within 25 days of when the town received the award. The final possible meeting date takes the process to day 48 prior to the budget submission date.

If a town(s) rejects the award, it must notify the education commissioner and the respective employees' representative in writing of its action within 10 days of the vote (day 38 prior to budget submission), along with a written explanation of the reasons for the vote. Within 10 days of receipt of the notice, the employees' representative must file – and the board of education may file – a written response to the rejection and submit the response to the legislative body/bodies and the education commissioner. The process then enters a second arbitration phase.

Stipulated award. It is possible that once arbitration commences, parties may reach agreement on all disputed issues prior to any formal arbitration award being issued. Although the arbitration panel did not have to choose between last best offers, these agreements are issued as arbitration awards.

The Teacher Negotiation Act provides that at any time prior to the issuance of a decision by the arbitrator(s), the parties may jointly file with the arbitrator(s) any contract language mutually agreed upon (i.e., stipulated) by the parties. This provision has been interpreted by the education department as meaning any agreement made between the parties after the “bump and run” hearing is considered “stipulated.” (As previously mentioned, language agreed to prior to the initial hearing is considered a negotiated settlement and not made part of any written arbitration award.)

Any language stipulated to by the parties after the initial hearing, is incorporated into the arbitration award. Even though the parties agree to the language on their own, presumably outside of the arbitration process, it still becomes part of an actual arbitration award if it is agreed to after the first hearing. The arbitrator(s) must include stipulated language as part of the award, as long as the language is filed jointly by the parties.

Fully stipulated awards under TNA lead to an interesting paradox as far as review by the local legislative body is concerned. The Teacher Negotiation Act specifies that first panel arbitration awards must be filed with the impacted town(s) for possible rejection. If rejected, all issues go before a second panel that chooses one party's last best offer for each rejected issue (as discussed below). A procedural dilemma arises as follows: if the parties agree on stipulated language and that language becomes the arbitration award, and the award is subsequently rejected by the local legislative body, what becomes the issue(s) put before the second review panel given the review panel can only choose among the parties' last best offers? In other words, a stipulated award has no “last best offer(s)” submitted by the parties, only language mutually agreed to by the parties. As such, if a stipulated award was to be rejected by the local legislative body, there technically would be no “last best offer(s)” from which the review panel could choose, rendering the process moot.

Second Panel Arbitration

Within 10 days after receiving notice of the local legislative body's rejection of an arbitration award (day 28 prior to budget submission), the education commissioner must convene

a second arbitration panel to hear the case. The panel consists of three neutral arbitrators, or a single arbitrator if the parties agree. If the parties do not agree, the commissioner is responsible for making the appointment(s). By law, any arbitrator involved with the first arbitration for that particular case cannot take part in the second panel.

The second panel arbitrators are randomly chosen by the commissioner for that particular case and are limited to reviewing only the decisions on issues rejected by the local legislative body. The second arbitration panel is further restricted as to what information it may review; it only reviews the following material from the first arbitration: 1) the record; 2) post-hearing briefs; 3) written explanation from the town(s) of the reasons for the rejection vote; and 4) written replies from the parties of the first arbitration award for that particular case. The second panel review must apply the same seven statutory criteria as the first panel when reviewing the case and may only accept the last best offer that either party entered for that particular issue during the first arbitration.

Second panel arbitration reviews must be completed within 20 days of appointment (day eight before budget submission). A written decision by the second arbitration panel on each issue before it must be made within five days after the review is completed (day three prior to the budget submission date). The decisions are drafted into a final award, which is binding on the parties. Awards must include the specific reasons and standards used by each arbitrator in making his/her decision on each issue.

Once written, awards are to be filed with each party. Unlike the first arbitration, the statute does not specify whether the town clerk(s) receives a copy. The statute requires the legislative body/bodies that rejected the first award to pay for the reasonable costs of the second arbitrator(s) and the transcript cost of the proceedings.

Appeal to Court

The Teacher Negotiation Act states that second arbitration awards are not subject to rejection by local legislative bodies. Such awards may, however, be appealed by either party to the state's superior court for judicial review.

The statute requires that a motion to vacate or modify a review arbitration award be made within 30 days of when the parties received the second panel's award. The motion must be made in the superior court for the judicial district where the impacted school district is located.

The superior court, after hearing the case, may vacate or modify an award if "...substantial rights of a party have been prejudiced because such decision is: A) in violation of constitutional or statutory provisions; B) in excess of the statutory authority of the panel; C) made upon unlawful procedure; D) affected by other error of law; E) clearly erroneous in view of the reliable, probative and substantial evidence on the whole record; or F) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion." (C.G.S. Sec. 10-153f(c)(8)). Further, reasonable attorney's fees costs, and legal interest on salary withheld as a result of an appeal of an arbitration decision may be the responsibility of the "losing" party, as determined by the court.

Preliminary Analysis

Contract Settlements

Table I-1 highlights contract settlements for teachers and administrators for FYs 1999-2005. In total, 734 contracts were settled during the seven-year period analyzed. Contract settlements for teachers accounted for 56 percent of the total, while settlements for administrators was 43 percent. The remaining one percent of the settlements was for those school districts that combine contracts for teachers and administrators, which is not a typical practice statewide. On average, 105 contracts were settled yearly under TNA for teachers and administrators. Typically, contracts are for three or four years.

Table I-1. Contract Settlements: Teacher Negotiation Act (FYs 99-05)				
Fiscal Year	Total Contracts	Teacher	Administrator	Combination
1999	117	60 (51%)	55 (47%)	2 (2%)
2000	99	55 (56%)	43 (43%)	1 (1%)
2001	107	61 (57%)	46 (43%)	0 (0%)
2002	105	56 (53%)	48 (46%)	1 (1%)
2003	88	56 (64%)	31 (35%)	1 (1%)
2004	113	66 (58%)	47 (42%)	0 (0%)
2005	105	56 (53%)	49 (47%)	0 (0%)
Cumulative Totals	734	410 (56%)	319(43%)	5(1%)
Notes: 1) Combination = districts whose teachers and administrators bargain under the same contract 2) Table includes information from 166 local and regional districts and 3 endowed schools; does not include Waterbury Financial Planning and Assistance Board. Source: Department of Education and LPR&IC Staff Analysis.				

Settlements by Resolution Method

Contracts under TNA are settled through variety of resolution methods, namely negotiation, mediation, stipulation, and arbitration. Figure I-2 illustrates the methods used to settle contracts for teachers and administrators between FYs 1999-05. It should be noted that “arbitrated” includes first panel arbitrations and review/second panel arbitrations since the *final* settlement was decided through arbitration. A separate analysis of first and second panel arbitrations is provided later in this section.

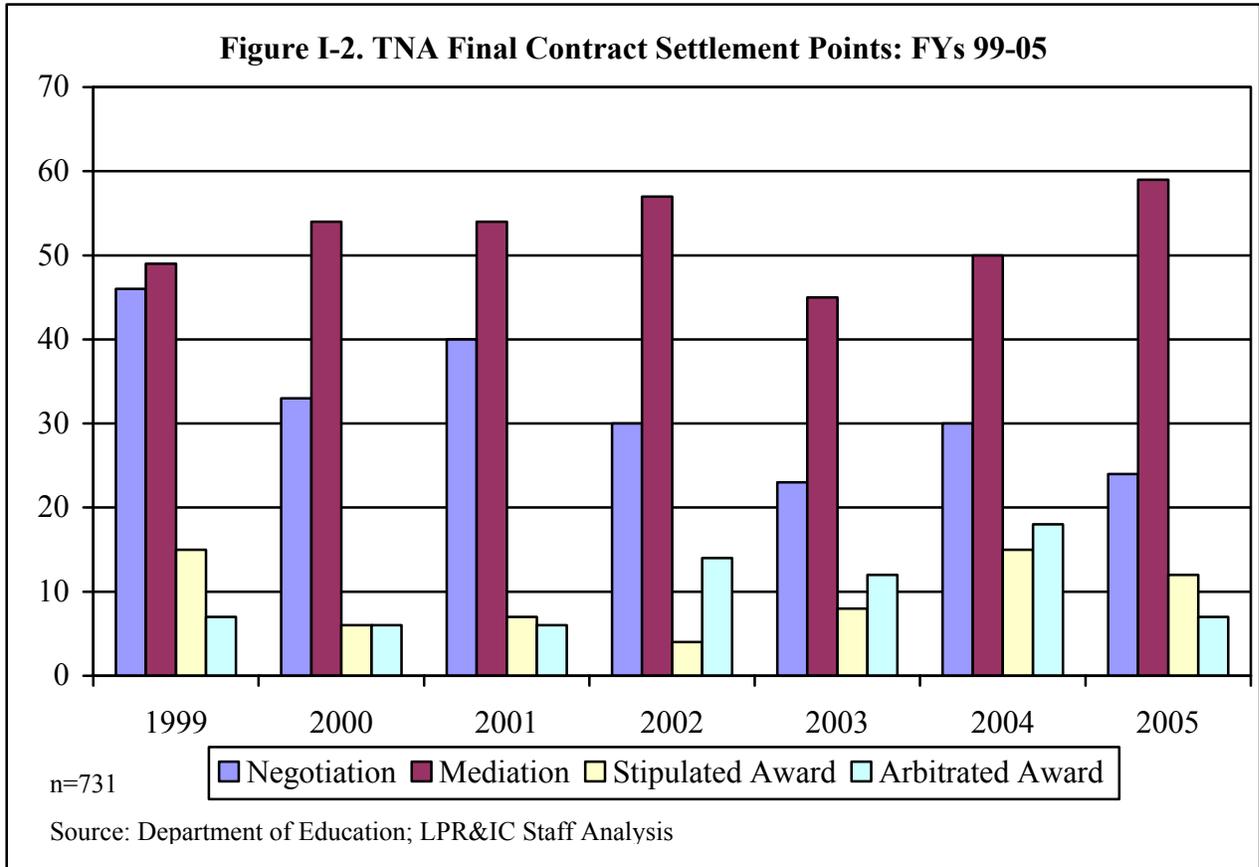


Figure I-2 shows the vast majority of teacher and administrator contracts for FYs 99-05 were settled either through negotiation between the parties or the use of a third-party mediator. Of the total 731 contracts settled during that period (final settlements for three FY 05 contracts were not indicated in the SDE data), a full 594 contracts (81 percent) were settled through negotiation or mediation – 226 negotiation and 368 mediation.) Another 67 contracts (9 percent) were settled through stipulated awards. (Although issues stipulated to by labor and management during the arbitration phase of TNA are technically “arbitrated” awards (i.e., stipulated awards), an argument can be made that such awards should be considered voluntary settlements between the parties because an arbitrator did not have to decide the case by choosing a last best offer(s) from either party.) The remaining 70 contracts (10 percent) were ultimately settled through arbitration and included arbitrated awards in which last best offers were chosen. In total, the figure shows 661 contracts – or 90 percent – of the contracts settled under TNA for FYs 99-05 were done so through “voluntary agreements” between the parties, including stipulated awards, while 10 percent were decided through arbitration.

Contract Resolutions by Unit

The methods used by *teachers* to reach final contract settlements for fiscal years 1999-05 are illustrated in Figure I-3. As the figure shows, mediation was the preferred method of resolving teacher contracts for the period analyzed. Of the 409 contracts settled, mediation was used to settle almost two-thirds of the contracts (249 or 61 percent). Of the remaining 160 contracts, the percentage of settlements reached through negotiation, stipulation, and arbitration were very comparable, with 13 percent negotiated, 12 percent stipulated award, and 15 percent arbitrated award.

In terms of trends in the resolution methods over the period analyzed, the figure shows the number of contracts settled through mediation declined between FYs 01-04, while the number of arbitrated contracts generally increased during those years. This trend, however, reversed in FY05, with an increase in mediated settlements and a decrease in contracts requiring arbitration.

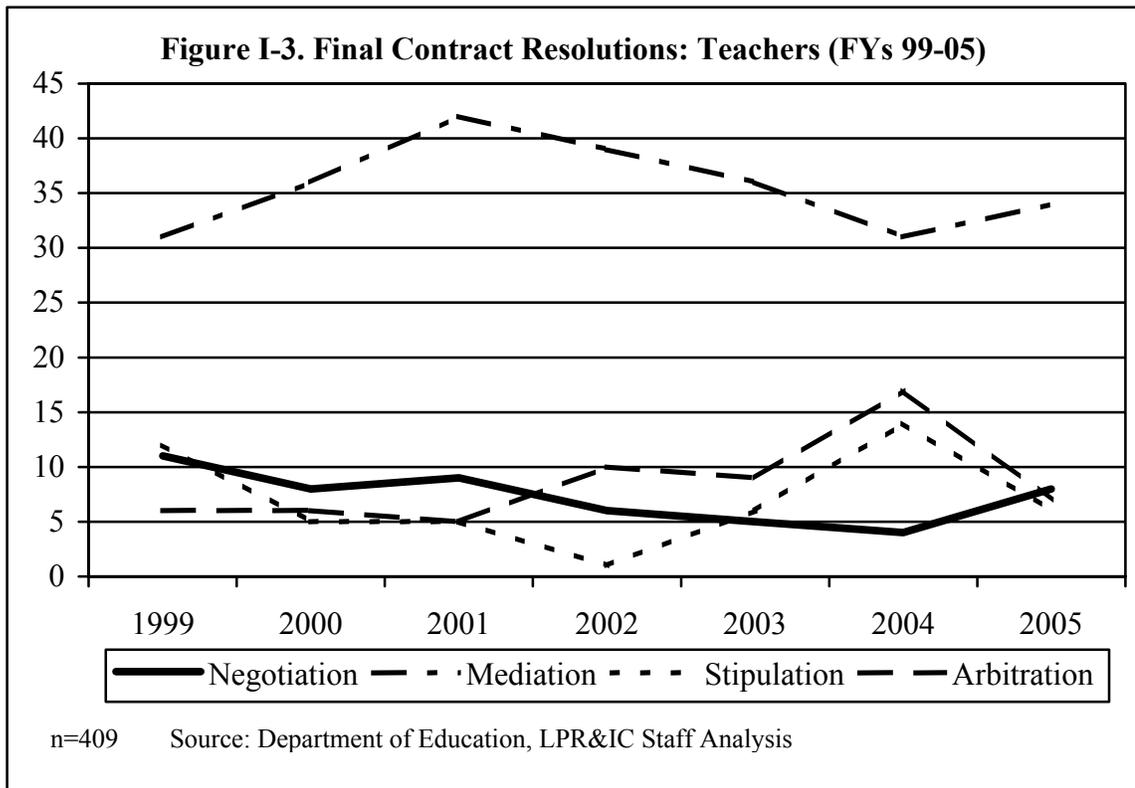
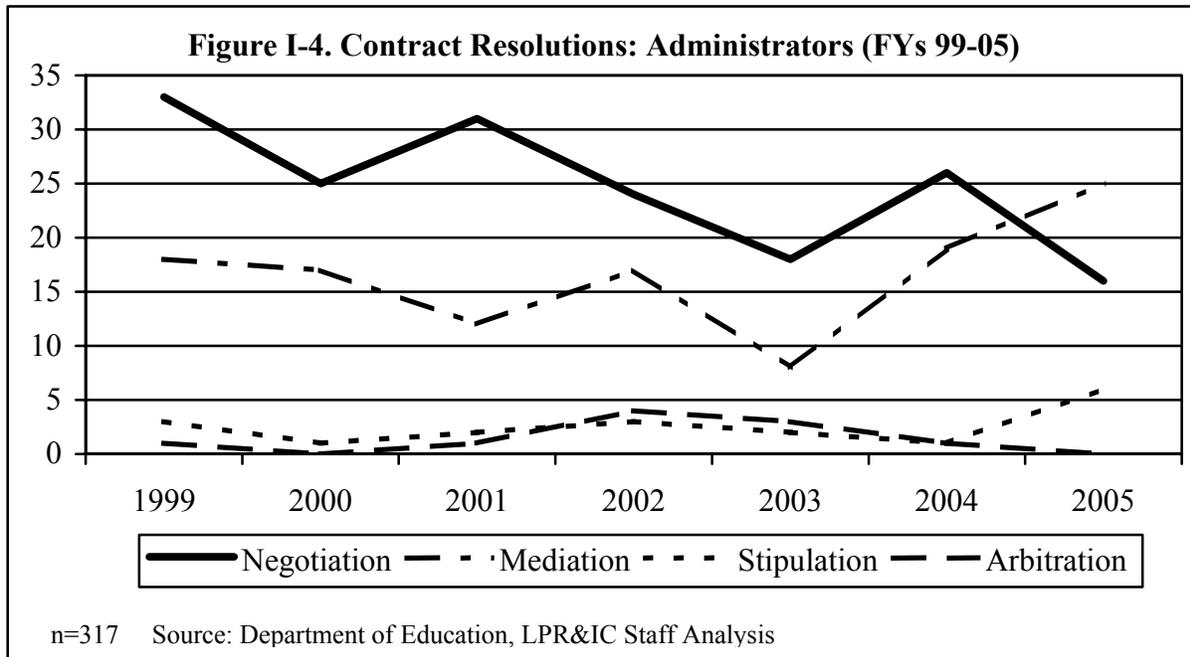


Figure I-4 illustrates how *administrators'* contracts were resolved for the same period. The figure shows for all years but one, negotiation was the preferred method to settle contracts. Of the 317 settlements, 173 (55 percent) were resolved through negotiation between the parties. Negotiation was used to settle 116 contracts (37 percent), while 18 contracts (6 percent) settled through stipulated awards. Arbitration settled the remaining 10 administrator contracts (3 percent). (It should be noted that the five combination contracts did not go to arbitration, but were settled either through negotiation or mediation.)



Arbitration Review Panels

Under TNA, a second round of arbitration occurs whenever a town rejects an arbitration award. Given the relatively small number of contracts that go to arbitration, and then the small number of towns that actually reject an award, second review panels are used infrequently.

Table I-2 shows that of the 70 teacher and administrator contracts settled through arbitration (not excluding stipulated awards) between FYs 1999-05, a total of eight (11 percent) went to a second review arbitration. During that period, arbitration review panels decided five teachers' contracts and three administrators' contracts.

Table I-2. Review Panel Arbitrations: Teacher Negotiation Act (FYs 99-05)			
Fiscal Year	School District	Teacher	Administrator
1999	Clinton	✓	
	East Haddam	✓	
2000	Naugatuck	✓	
2001	Meriden		✓
2002	East Hartford		✓
2003	Stamford		✓
	Watertown	✓	
2004	Milford	✓	

Notes:
 1) Table includes information from 166 local and regional districts and 3 endowed schools; does not include Waterbury Financial Planning and Assistance Board.
 Source: Department of Education and LPR&IC Staff Analysis.

TNA Arbitrators

The Teacher Negotiation Act and its accompanying regulations provide for the establishment of a panel of arbitrators and outline a process by which individuals are appointed to the panel. State law requires the panel to include not less than 24 or more than 29 arbitrators. The panel is administered through the Department of Education.

In total, the arbitration panel is to include seven arbitrators to represent the “interests of local and regional boards of education” and seven arbitrators to represent the “interests of exclusive bargaining representatives of certified employees” – commonly referred to as advocate arbitrators. The panel must also include between 10 and 15 members to serve as “impartial representatives of the interests of the public,” also referred to as neutral arbitrators.

Neutral Arbitrators

Neutral arbitrators, in their capacity as the single arbitrator on a case, or chair of a three-member panel, are responsible for all facets of the arbitration process. Their main responsibilities include: 1) coordinating and conducting arbitration hearings; 2) recordkeeping of proceedings; 3) receiving and maintaining evidence presented as part of the arbitration hearing process; and 4) writing the arbitration awards.

Minimum qualifications. Individuals seeking to become neutral arbitrators must possess specific qualifications outlined in statute before being considered for appointment. A prospective candidate, as well as candidates seeking re-appointment, must be: 1) a state resident; and 2) experienced in public sector collective bargaining interest impasse resolution. Further, a neutral arbitrator must not be an advocate for employers or employer organizations in either the public or private sectors, or for public or private sector employees or employee organizations, at the time of application or within two years of application. By regulation, an advocate is defined as “an individual who represents an organization in matter of personnel and labor relations...”

Candidates for the neutral arbitrator panel must also possess and apply knowledge of the:

- state’s Teacher Negotiation Act and other labor laws relevant to the public sector;
- principles of arbitrator ethics;
- principles and practices of contract negotiation and administrations;
- hearing procedures and the ability to conduct arbitration hearings and to develop an accurate record of proceedings;
- limits of arbitrator authority; and
- basic tenets of public sector finance, particularly municipal finance.

In addition to these basic knowledge requirements, candidates for neutral arbitrator must display specific qualities. These include the ability to:

- evaluate the costs of wage and fringe benefits and improvements;
- write clear and comprehensive arbitration awards;
- complete the written award within statutory timelines; and
- provide a commitment to the public interest.

Appointment process. TNA neutral arbitrators are appointed to the neutral arbitrator panel by the governor with the advice and consent of the legislature. Prospective panel members must first undergo a formal application and review process before their appointment. Current members must be re-appointed following their term expiration under the same process, although formal interviews may not be necessary unless the interview committees deems otherwise. The full process is illustrated in Figure I-5.

As Figure I-5 shows, initial candidates to the panel are solicited by the Department of Education to apply for the panel. The department recruits arbitrators through various means, including ads in newspapers and legal publications and through professional organizations, like the American Arbitration Association (AAA).⁴

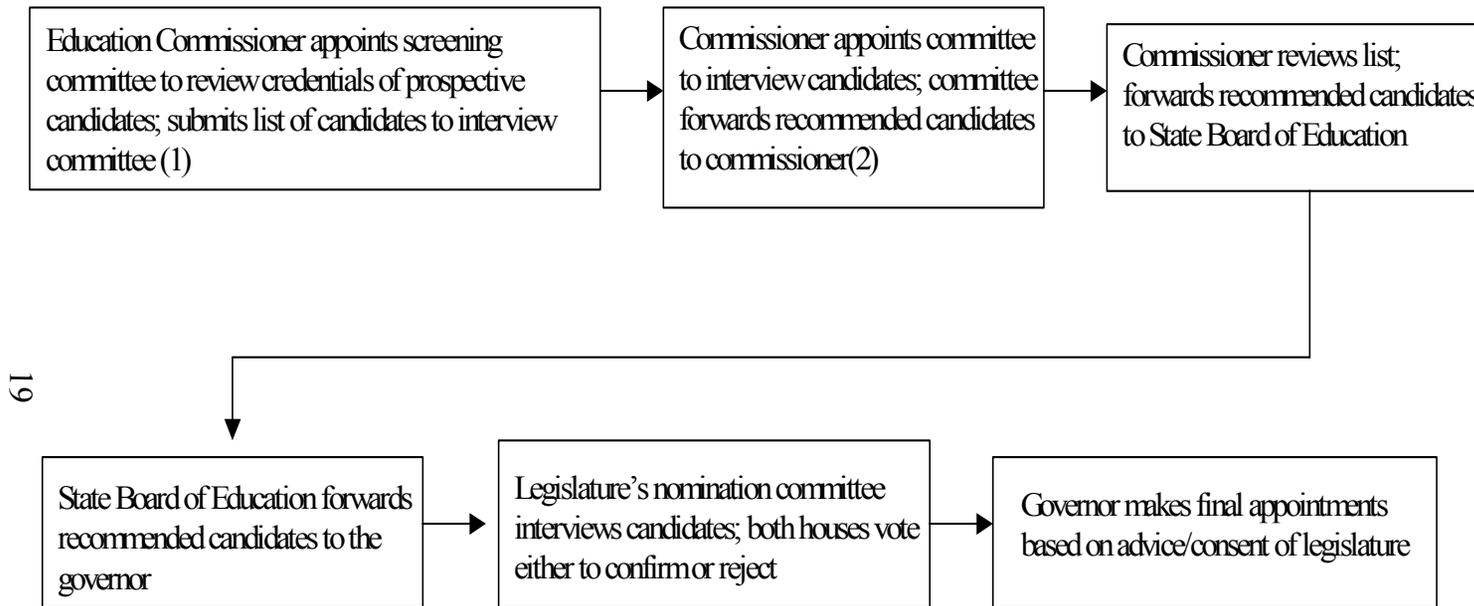
Candidates submit their credentials to the department for review. Prospective candidates are initially reviewed by a screening committee of at least five people appointed by the commissioner. By regulation, the committee must include: 1) the commissioner's designee; 2) representatives of local and regional boards of education; 3) exclusive bargaining representatives of certified employees of local or regional education boards; and 4) local legislative and fiscal authorities.

The screening process is used to decide which candidates have the minimum qualifications necessary to proceed to the interview phase. According to regulation, candidates are rated as either "qualified for an interview" or "not qualified for an interview." It takes a majority vote of the screening committee to determine if a candidate will be interviewed or not.

The interview process is conducted by a separate interview committee, also appointed by the commissioner. By regulation, the committee is to consist of 12 members – three representatives from each of the following groups: 1) local and regional boards of education; 2) exclusive bargaining representatives of certified school staff; 3) local legislative and fiscal authorities; and 4) public or private neutral dispute resolution agencies, which includes the commissioner's designee (who also serves as the committee's chairperson).

⁴ The American Arbitration Association provides neutral, third-party mediation and arbitration services through mediator and arbitrator panels to resolve interest and grievance conflicts among disputing parties and is a world-wide, not-for-profit organization. AAA panel arbitrators must have a minimum of 15 years experience in the field of dispute resolution.

Figure I-5. Process for Appointing Neutral Arbitrators Under TNA



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(1) Screening committee to consist of at least five people, including: the commissioner's designee; representatives of local and regional boards of education; exclusive bargaining representatives of certified employees of local or regional education board; and local legislative and fiscal authorities.

(2) Interview committee consists of three representatives each from following groups: local/regional boards of education; exclusive bargaining reps. of certified school staff; local legislative and fiscal authorities; private/public neutral dispute resolution agencies

The interview committee conducts interviews of the candidates recommended by the screening committee. According to regulation, candidates must be ranked as either “excellent,” “good,” “satisfactory,” “marginal,” or “unsatisfactory” as defined in regulation. All members of the committee must give a candidate at least an overall rating of “satisfactory” for the candidate to then be recommended to the education commissioner. Current members of the panel typically do not go through the formal interview process, unless the committee believes it is necessary. Current members must still receive unanimous approval of the committee to complete the rest of the appointment process.

The education commissioner reviews the recommendations of the interview committee, and may instruct the interview committee to review again any unsuccessful candidate. The commissioner then forwards a list of recommended candidates to the State Board of Education for review. Following review by the board, a list is sent to the governor for review. In the meantime, the board may direct the interview committee to review any unsuccessful applicant.

Any list sent to the governor may only include names of candidates approved by the interview committee. The state education board is also required by statute to include with its list to the governor a report certifying that the process conducted for soliciting applicants made adequate outreach to minority communities, and documents whether the number and make-up of minority applicants considered reflect the state’s racial and ethnic diversity.

The governor nominates arbitrator panel candidates to the legislature. Candidates first testify before the legislature’s Executive and Legislative Nominations Committee at a public hearing and then must be approved by both chambers.

Intern program. State regulation requires an arbitrator intern program be available to prospective panel applicants who lack experience in arbitration, but are otherwise qualified. The program has been operated through the education department in the past, but no candidates are currently enrolled.

Candidates for the program, as selected by the education commissioner, must meet certain initial qualifications to participate, including experience in public sector collective bargaining interest impasse resolution. Interns are required to attend training classes conducted, sponsored, or endorsed by the commissioner or her designee. Interns are also required to attend not less than six arbitrations conducted under TNA with at least three different neutral arbitrators, and must write at least three more awards to be reviewed by the commissioner/designee. Interns successfully completing the program will be invited to interview for the neutral arbitrator panel. Interns may only participate in the program twice.

Terms and vacancies. Arbitrators serve for two years, or until a successor is appointed. There is no limit on the number of terms panel members may serve, although arbitrators may be removed from the panel for good cause.

If a vacancy occurs, the governor has 40 days to appoint a replacement. Should a vacancy occur while the legislature is not in session, state law provides that the governor may make an appointment until the legislature's next regular session when the appointment(s) must receive legislative consent. The governor may make such an appointment as long as the person being appointed was not rejected by the General Assembly for the same position during the legislature's last regular session.

Compensation. No arbitrator, whether serving as a neutral or advocate panel member, receives compensation from the state or is considered a state employee. Rather, each arbitrator is responsible for setting his or her own per-diem rate, plus other costs, such as traveling, food/lodging, and photo-copying. Rates are established per six hours of work. According to statute, per-diem fees must be determined on the basis of the prevailing market rate of such services. The education department is not responsible for approving arbitrators' rates.

Per-diem fees for those neutral arbitrators submitting their 2005-06 rates to the education department range from \$750 to \$1,400, with an average rate of \$1,100. The arbitrators with more experience and in greater demand have higher rates. The parties are responsible for evenly sharing any cost incurred for the neutral arbitrator during an arbitration case. Parties also pay the fees for their respective advocate arbitrators.

Current panel. Table I-3 lists the current 10 members of the neutral arbitration panel who provide interest arbitration under the Teacher Negotiation Act. A review of panel members' resumes on file at the education department shows they have backgrounds in impasse resolution and all but one member are attorneys. All the current panel members also serve as arbitrators for the American Arbitration Association, although it is not required. The vast majority of members have served on the panel since the early 1990s. All members currently have term expirations of November 2006.

Table I-3. Neutral Arbitrators: Teacher Negotiation Act (2005)			
	Location	Original Appointment	General Background
Sandra Biloon	West Hartford	1995	Labor Relations
Lynn Alan Brooks	West Hartford	1991	Attorney
Laurie Cain	Simsbury	1992	Attorney
Leeland Cole-Chu	New London	2000	Attorney
J. Larry Foy	Simsbury	1995	Attorney
Richard Kosinski	New Britain	1991	Attorney
Susan Meredith	New Haven	1993	Attorney
Kevin Randolph	Hartford	2000	Attorney
Steve Rolnick	Hamden	2000	Attorney
Thomas Staley	New Haven	1992	Attorney

Note: Arbitrators do not receive compensation from the state for their services. A per-diem rate is established by each arbitrator and parties to the arbitration are responsible for evenly dividing neutral arbitrator fees. Rates are based on six hours of service, including hearings, study time, and report preparation. Individual rates may include other costs, such as travel, meals, lodging, mailing, and photocopying.
Source: Department of Education

Performance review. The commissioner of education is required by law to develop a process to annually review the performance of each member of the arbitration panel. The department does not have a formal performance appraisal system in place; rather it uses the re-appointment process for neutral arbitrators to fulfill this requirement.

Advocate Arbitrators

Although arbitrators representing either boards of education or certified professional school employees are members of the full arbitrator panel appointed by the governor, their appointment process differs somewhat from that of neutral arbitrators. Advocate arbitrators are appointed by the governor from lists of names put forth by the groups they represent, not by the screening/interview process conducted through the Department of Education. Similar to neutral arbitrators, however, advocate arbitrators need legislative consent prior to appointment to the arbitrator panel. (See Appendices B and C for a current list of advocate arbitrators.)

Second Panel Arbitrators

Neutral arbitrators willing to serve as second/review panel arbitrators are included on a separate list of arbitrators maintained by the education department. Review panel arbitrators generally follow the same appointment process as those appointed to the neutral arbitrator panel. Unlike the first panel, however, the process for the review panel is not outlined either in statute or regulation. Instead, the education department has developed an internal protocol for the selection of review panel arbitrators.

The protocol for selecting review panel arbitrators begins with the department issuing a recruitment letter through the American Arbitration Association to arbitrators who belong to the association and are residents of the state. (The statute only requires AAA membership for second review panel members.) The association maintains its lists of arbitrators as proprietary information and will not release such information to the education department, but has agreed to send the department's recruitment letter to its Connecticut-based arbitrators.

Applications are first screened by a panel developed by the commissioner representing the interested parties. Candidates approved by the screening committee are invited to an interview before another interview committee of twelve members representing municipal, labor, board of education, and neutral interests. Names of candidates receiving unanimous approval by the interview committee are then recommended to the commissioner, who uses the names to appoint review panel members for two-years terms.

Similar to the first panel process, sitting members of the review panel do not require a formal interview at the time of re-appointment. However, any member of the interview committee may request that a sitting member of the review panel be interviewed before reappointment. Further, any candidate who is unsuccessful in the interview process may request a second interview from the commissioner.

Table I-4 shows the current membership of the review panel. Currently, there are 10 members of the neutral arbitrator review panel for teacher and administrator interest arbitration. Several members also serve on the first panel of neutral arbitrators, and most have served on the review panel for at least eight years. The per diem rates charged by the panel members are comparable to those of the first panel. Unlike the first panel, fees for review panel members are paid by the legislative body/bodies rejecting an award, not by the individual parties to an arbitration case. Terms for each panel member expire November 2006.

Table I-4. Review Panel Arbitrators: Teacher Negotiation Act (2005)			
	Location	Original Appointment	General Background
Ruben Acosta	Simsbury	1997	Attorney
Sandra Bilon	West Hartford	1997	Labor Relations
Susan Boyan	Vernon	1997	Attorney
Laurie Cain	Simsbury	1992	Attorney
Richard Kosinski	New Britain	1997	Attorney
Susan Meredith	New Haven	1997	Attorney
Louis Pittocco	Greenwich	2000	Attorney
Thomas Staley	New Haven	1994	Attorney
<p>Note: Arbitrators do not receive compensation from the state for their services. A per-diem rate is established by each arbitrator and parties to the arbitration are responsible for evenly dividing neutral arbitrator fees. Rates are based on six hours of service, including hearings, study time, and award writing. Individual rates may include other costs, such as travel, meals, lodging, mailing, and photocopying.</p> <p>Source: Department of Education</p>			

Preliminary Arbitrator Analysis

Committee staff compared the number of teacher and administrator arbitration cases heard by arbitrators, as shown in Table I-5. For this analysis, the comparison includes stipulated awards, first panel arbitrations, and second panel arbitrations because formal awards are issued under each of these circumstances. The analysis is not used to highlight particular arbitrators, but to show the choices parties have made between themselves to select arbitrators to hear their cases.

When the parties cannot agree on a neutral arbitrator to hear the case, the education commissioner is responsible for randomly selecting an arbitrator from the panel of neutral arbitrators maintained by the department (separate lists exist for first and second panel members). This is a rare occurrence, however. Of the 149 first panel and second panel arbitrations occurring between FYs 99-05 (including arbitrations resulting in stipulated awards), a neutral arbitrator was appointed by the commissioner 10 times (seven percent of the cases).

This means that in 93 percent of arbitrations analyzed, parties mutually agreed on which neutral arbitrator to use.

Table I-5 also shows the vast majority of arbitration cases occurring between FYs 1999-2005 were heard by four arbitrators. In fact, the four arbitrators participated in 85 percent of the arbitrations during the period analyzed. Again, the parties are responsible for mutually choosing which arbitrators to use from the education department's arbitrator lists. Either side in the collective bargaining process is free to choose an arbitrator from the respective lists available through the department. Mutual agreement between the parties, however, is necessary to select a neutral arbitrator and avoid having one be appointed by the commissioner.

Table I-5. Number of Times Served as Neutral Arbitrator (First and Second Panels) FYs 99-05									
	Panel Member*	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04	FY 05	Totals
Ruben Acosta	(2)					1			1
Sandra Biloon	(1,2)			1			1		2
Susan Boyan	(2)	4	1						5
Lynn Alan Brooks	(1)	2		1					3
Laurie Cain	(1,2)			1	3	1	4	2	11
J. Larry Foy	(1)	2	2	6	5	5	9	4	33
Richard Kosinski	(1,2)		1		1	1			3
Susan Meredith	(1,2)	9	4	3	5	9	9	7	46
Albert Murphy		4	2						6
Louis Pittocco	(2)					1			1
Kevin Randolph	(1)							1	1
Steve Rolnick	(1)							1	1
Thomas Staley	(1)	1	2	3	5	8	12	7	36
*Current panel membership: 1=first panel and 2=second panel Source: Department of Education; LPR&IC Staff Analysis									

Section 2: Municipal Employee Relations Act

Background

The right for municipal government employers and employees to collectively bargain was established in 1965 under the Municipal Employee Relations Act (MERA). Previously, it was a municipality's choice whether or not to bargain. MERA made this a right uniformly available throughout the state.

MERA was enacted to promote better employer-employee relations in municipal government. Local legislative bodies were given the right to reject collective bargaining agreements that impacted the expenditure of funds, and municipal employees were prohibited from striking. To resolve impasses, MERA provided nonbinding arbitration. The Connecticut State Board of Labor Relations administered the act.

Last best offer, issue by issue binding arbitration was added to MERA in 1975 because the negotiation process mandated by the act was perceived as failing to produce fair and timely contracts. With municipal contract negotiations many times continuing for multiple years after contracts expired, binding arbitration was seen as a more efficient way to resolve bargaining impasses and avoid resorting to illegal strikes.

Specific timetables for the collective bargaining process in 1975 included negotiations beginning at least 120 days prior to contract expiration date, mediation 70 days before contract expiration date, fact finding 45 days prior to expiration date, and arbitration within 90 days after a contract expired. The amended act further specified that the labor and management arbitrators together select a neutral arbitrator to serve as chairman of a tripartite arbitration panel; the State Board of Mediation and Arbitration was to select a state resident to be the chairman (i.e., neutral arbitrator) if the party arbitrators are unable to do so.

In 1987, the General Assembly amended MERA so that contract reopener negotiations would be subject to the same binding arbitration procedures as full contract negotiations and contract reopeners. Binding arbitration would also be imposed 90 days after the date the parties commenced negotiations to revise the agreement/contract.

A significant statutory change enacted in 1992 allowed town legislative bodies to reject initial arbitration awards by a two-thirds vote of their members present and voting. The local legislative body was also required to submit its reasons for rejecting an arbitration award to the State Board of Mediation and Arbitration and the employee organization. Other changes in 1992 included lengthening mediation from 25 to 100 days, and imposing binding arbitration within 30 days rather than 90 days.

While the original 1992 change permitted towns to reject individual issues, a subsequent amendment in the same session required the local legislative bodies to reject an arbitration award as a whole. Finality of binding arbitration was preserved by requiring rejected awards to be submitted to a second panel of arbitrators and making the second panel's award final and binding

on both parties. The original amending language gave the second panel the ability to choose an award that fell between the final last best offers; however, the subsequent legislative modifications limited the second panel to choosing one of the last best offers made by the two parties. Additionally, arbitrators were instructed to give priority to the “public interest” and the municipality’s ability to pay criteria in both the first and second rounds of arbitration. The arbitration panel was also required to consider developments in private sector wages and benefits. Factfinding was eliminated at this time, as well.

In 1993, the authority of the State Board of Mediation and Arbitration to impose binding arbitration in situations where the municipal employer and a new municipal employee bargaining unit had reached an impasse in negotiations during their first contract was restored by P.A. 93-17. Additionally, the act required the State Board of Mediation and Arbitration to impose binding arbitration if parties were at an impasse 180 days after recognition or certification.

Provision waivers. Unlike TNA, the parties under MERA may jointly decide to modify, defer or waive any of the timeframes or other provisions within the statute. For example, the parties may jointly stipulate to an extension of the time allotted to negotiations. Should the collective bargaining process advance to the arbitration phase, then, rather than the required tripartite panel of arbitrators, the parties may stipulate to using one neutral arbitrator. MERA allows such flexibility as long as the two parties can agree to these adjustments. Preliminary anecdotal evidence suggests that this flexibility results in a relatively longer time taken to resolve contracts in comparison to TNA, or if the statutory timeframes had been adhered to under MERA.

The following describes MERA’s scope, the structure to administer and implement it, and details the contract settlement process. An overview of the arbitration appointment practice is also provided.

Scope and Roles

Employees Covered

The MERA statute covers most employees of a municipality except for certified personnel employed by local school boards. Non-certified employees of local school districts, as described in Section 1, are covered by MERA. Under MERA, employees have the right to organize and bargain with their employer (usually the town, board of education, or housing authority) over wages, hours and other conditions of employment.

In addition to certified school personnel, MERA does not cover municipal elected officials (e.g. town selectman), administrative officials, board and commission members, part-time employees working under 20 hours per week on a seasonal basis, and department heads. Further, municipal employees having access to confidential information pertaining to collective bargaining may be excluded from collective bargaining by the State Board of Labor Relations. Such employees typically include the secretary of the municipal business administrator or of the school superintendent.

Municipal Employers

The Municipal Employee Relations Act covers the employees of municipal governments, including towns, cities, boards of education, housing authorities or some other authority of the municipality as established by law, and/or private nonprofit corporations with valid contracts with a municipality. Regardless of source of funding, the employer is identified as the entity that has the right of exclusive control over the hiring, wages, hours and conditions of employment of the employee group.

Schoolteachers and administrators are employed by school boards but fall under TNA. Additionally, boards of education are often, but not always, the employers of the noncertified education employees, such as classroom paraprofessionals, cafeteria workers, or custodians—employee groups that fall under MERA. (A few noncertified employees may be employed by the town or city rather than the board of education, but this occurs infrequently.)

Municipal employers who are the “town” or “city” are required to submit the financial issues in their negotiated or mediated agreements to the local legislative body for approval or rejection. All other municipal employers, such as the boards of education and housing authorities, have the authority to enter into collective bargaining agreements with the respective employee organization, and are not required to submit agreements for approval by the legislative body of the municipality, although the body may call a meeting to reject the contract if it deems necessary.

State Role

- **State Board of Labor Relations.** The State Board of Labor Relations (SBLR), which administers Connecticut’s labor relations statutes, administers MERA. It is responsible for: enforcing the duty of employers and employee representatives to bargain in good faith; investigating complaints of prohibited practices as filed by either the employer or employee union; and enforcing an arbitration award if a municipal employer refuses to comply with a valid arbitration award. (SBLR also plays a role in the establishment of new collective bargaining units and their union representation, or change to different representation.)
- **State Board of Mediation and Arbitration.** The State Board of Mediation and Arbitration (SBMA), created in 1895, administers various statutes that provide for mediation and arbitration services to both private and public sector employers and employee organizations. SBMA makes its services available if there is an impasse in contract negotiations or dispute over the interpretation of a contract.
 - The board consists of six members appointed by the labor commissioner to six-year terms; members may serve more than one term. Of the six members, two represent labor, two represent

management, and two represent the general public (i.e. neutrals). The governor designates the two public members as board chair and deputy chair.

- Public members are prohibited from having served as management or labor representatives during the five years preceding appointment to the SBMA. The qualifications to be a neutral arbitrator under MERA typically include extensive previous experience as an arbitrator, as discussed later in this section.
- There may be one or more alternate members appointed by the governor, as requested by the labor commissioner or the chairman of the board. Currently, there are 36 alternate members. The members serve terms of up to one year or until a replacement is appointed. Alternates have the same authority as permanent members of the board when called upon to arbitrate a case.
- In addition to a full-time director, SBMA has a total of 1.75 FTE employees assigned to monitor interest mediation and arbitration under MERA. These staff administers the interest arbitration component of MERA; other board personnel are responsible for the labor grievance component and associated SBMA duties.

Employee Representatives

Employee representatives are selected by the employees to act as their exclusive representatives in the collective bargaining process. There are many municipal employee groups represented by an array of unions. To date, committee staff has been unable to locate a full listing of all collective bargaining units in each town or city in Connecticut.

A union must be in existence for at least six months before it may be eligible to represent a group of municipal employees. Further, program review committee staff has not yet been able to identify a comprehensive list of the collective bargaining units within Connecticut municipalities, or the corresponding unions covering municipal employees.

Unlike TNA, there is no restriction on which groups may be covered under a collective bargaining unit, as long as the “community of interest” standard is met as determined by the SBLR. Thus, some municipalities may have multiple occupations within one collective bargaining unit, such as maintenance, clerical, custodians, and paraprofessionals (referred to as a “split union”), while other municipalities may have separate collective bargaining units for each of those occupations. The statute also requires that supervisors not be in the same collective bargaining unit as the employees they supervise. If there are three or more supervisors, however, they may form their own collective bargaining unit, provided they are not department heads or administrative officials.

Collective Bargaining Process

MERA uses last best offer, issue by issue, binding arbitration. This type of arbitration requires either a single neutral arbitrator or an arbitration panel to choose one party's final offer on each unresolved issue. The arbitrator(s) is instructed to consider the criteria specified in statute, with priority given to the public interest and the municipality's ability to pay criteria. The complete MERA collective bargaining process, including the binding arbitration phase, is shown in Figure II-1.

Negotiation

Unlike TNA, there is no statutory requirement for the municipal fiscal authority to be consulted before starting negotiations. There is also no provision for the fiscal authority to be involved in the negotiation process.

The two negotiating parties are represented by the employee organization (union) on the labor side, and the municipal chief executive officer or designee on the management side. The superintendent of schools is considered the chief executive officer for those negotiations that identify the board of education as the municipal employer.

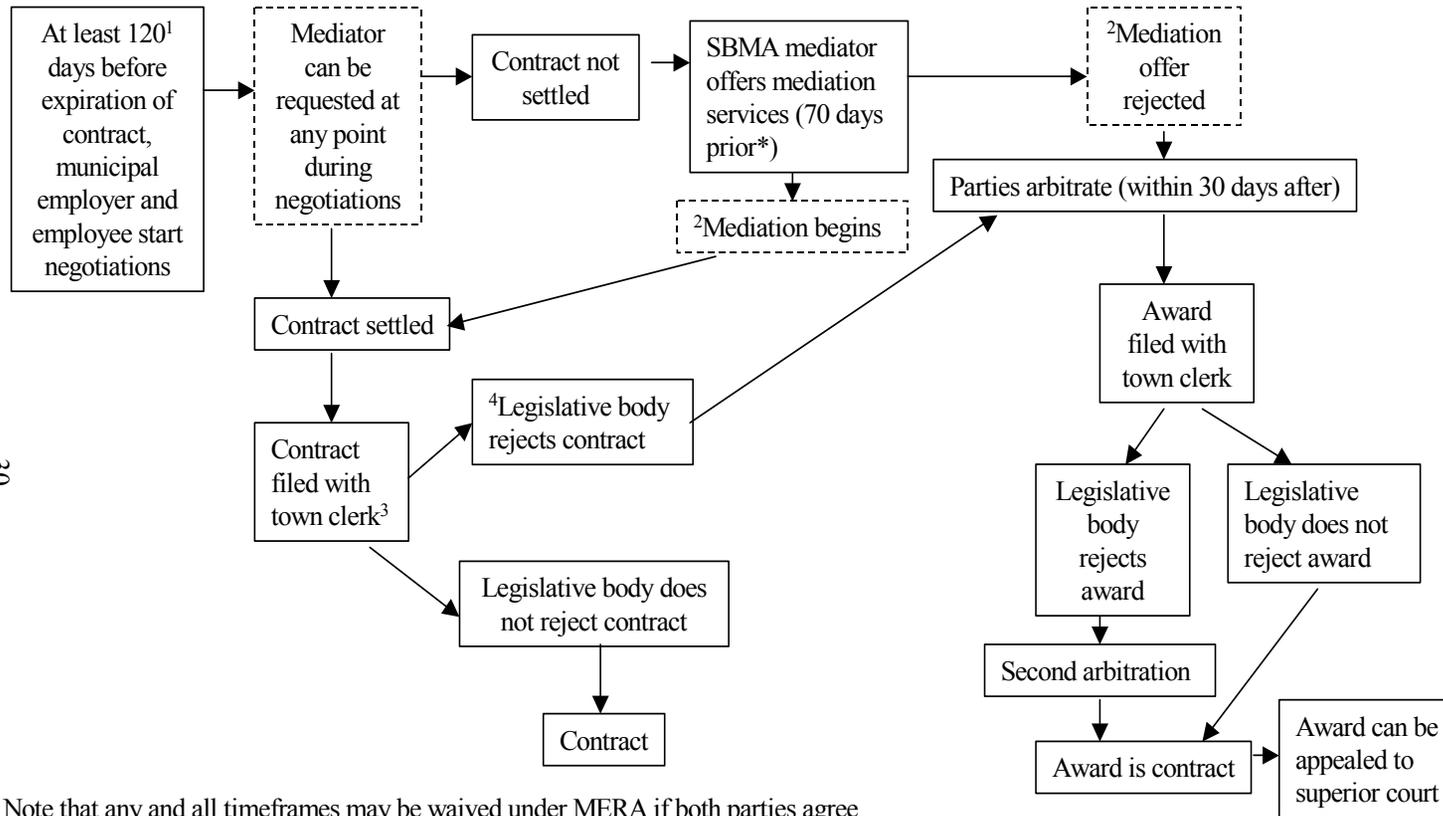
MERA requires employers and bargaining units to bargain in good faith over all workplace issues. While bargaining in good faith does not mean that either party must make a concession, neither side is allowed to require, for example, that it will only meet at night or only meet during regular working hours.

As Figure II-1 shows, the process begins with the two parties negotiating at least 120 days prior to expiration of the current contract. Typically, ground rules are initially established and may include agreement on meeting times and locations, whether negotiations will be public or private, who may attend, date that proposals are due, and how tentative agreements will be treated (e.g., whether they can be ratified by the parties). The statute also specifies that any newly certified or recognized municipal employee organization and the municipal employer must begin negotiating their first contract together within 30 days of that certification or recognition.

Issues discussed during the collective bargaining process are limited to wages, hours and other conditions of employment. Program-related issues, and the establishment or elimination of positions, may not be part of the negotiations, although their impact on the municipal employees may be included.

In contrast to TNA, the two parties under MERA may jointly decide to modify, defer, or waive any or all steps, including timeframes. It is not unusual, for example, for a MERA contract to continue being negotiated beyond the contract expiration date, because the parties decided to waive the statutory timeframe for when arbitration is imposed. Terms of an expired contract remain in effect until the new contract is approved, and terms of a new agreement may then become retroactive.

Figure II-1. MERA Binding Arbitration Process



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¹ Note that any and all timeframes may be waived under MERA if both parties agree

² Mediation is not mandatory and occurs only if both parties agree

³ Only contracts where the municipal employer is the “Town” must be filed with the town clerk; the legislative body is limited to approving or rejecting aspects of the agreement that involve a request for funds, or conflict with town charter, act or regulation

⁴ A negotiated contract that is rejected may return to negotiation, mediation or arbitration

*Numbers in parentheses indicate days in relation to expiration of current agreement (There are different timeframes for certification of new representative and re-openers)

Source: Department of Labor and LPR&IC staff.

Should the parties negotiate an agreement, then the agreement is put in writing and typically sent to the respective parties for ratification, although ratification is not required by statute. In general, the union ratifies first and then management will ratify the agreement, although ratification can occur simultaneously. If either party fails to ratify the agreement, then the parties may turn to mediation or arbitration.

If ratified, the bargaining representative of the municipality files the full contract or the portions of the agreement involving a request for funds (e.g., salaries and benefits) with the town clerk within 14 days of the date in which the agreement was reached. Only contracts where the municipal employer is the “town” must be filed with the town clerk.

If, after 30 days, the legislative body of the municipal employer fails to reject the contract, then it is considered final and binding. If the contract is rejected, then the matter is returned to the parties for further bargaining. The legislative body is limited to approving or rejecting aspects of the negotiated agreement that involve a request for funds or that are in conflict with any charter, special act, ordinance, rule or regulation adopted by the municipal employer. Conversely, the legislative body approves or rejects an *arbitrated award* based on any of the issues that were in dispute, regardless of whether the issue involved a request for funds, as discussed later.

If the parties fail to negotiate an agreement, then they may enter mediation or choose to go directly to arbitration. Should the two parties ultimately go to binding arbitration, then proposals exchanged during the negotiation phase become part of the information considered by the arbitration panel. Previous negotiations are one of the criteria used in selection of last best offers. Further, any issue or proposal that was not part of negotiations cannot be raised during arbitration (unless both parties agree to do so).

Contract reopener negotiations. As part of the agreement, the parties may decide to open negotiations on salaries, hours, or other conditions of employment prior to expiration of the current contract. Final-year general wage increases, pension and health insurance are examples of contract reopener issues. Should a settlement not be reached within 30 days of start of negotiations, then binding arbitration is triggered, and the same procedures followed as with other contracts in binding arbitration.

Mediation

Mediation is a process that uses a neutral person to help two parties reach agreement on disputes that were not resolved during the negotiation process. The role of the mediator is to facilitate negotiation between the two parties, trying to bring them closer together on what each side wants.

Mediation differs from arbitration, in which a third party (i.e. the arbitrator) makes the decisions. Mediators do not traditionally suggest what the settlement should be, draft agreements, or make other recommendations, because it is believed that the parties will feel more positively about the settlement and one another if they resolve differences among themselves. Mediators try to promote better relationships between labor and management.

As described in SBMA regulations, every labor dispute is unique, and the techniques or procedures governing the conduct of mediators will vary, depending on circumstances. Mediators have complete flexibility, and are not bound by the seven MERA criteria that arbitrators must use in their deliberations, described later in this section. Mediators, however, must adhere to the Code of Professional Conduct for Labor Mediators, a document that has been adopted by the Federal Mediation and Conciliation Service and the Association of Labor Relations Agencies.⁵

Under MERA, as highlighted in Figure II-1, parties may request mediation services at any time during negotiations. As in TNA, if the parties have not come to agreement within 50 days of the start of negotiations (80 days after the certification or recognition of a newly certified or recognized municipal employee organization, or 30 days after contract reopeners), then they are to be informed by letter from SBMA that the board has appointed a mediator. The assigned mediator is an employee of the State Board of Mediation and Arbitration and may have been involved in previous mediations with the two parties. There is no cost to the parties for the services of the state mediator. Parties may also reject the services of the state mediator and choose an independent mediator.

While MERA identifies the timeframe within which mediation may occur, unlike TNA, mediation is not a mandatory step prior to arbitration. Although a mediator may be assigned, he or she may actually have minimal involvement with the parties while they continue to negotiate an agreement among themselves.

Discussion during mediation is confidential and does not become part of the negotiating history should the dispute require arbitration. This is done to promote the effectiveness of mediation by assuring the parties that their discussions will not be disclosed. Mediators do not have the authority to impose settlements, and they are not required to testify, even if subpoenaed, regarding information discussed during the mediation process.

If resolution does not occur within the statutory timeframe (30 days past contract expiration date), and the parties have not agreed to waive the statutory timeframes, then binding arbitration is imposed. The commencing of binding arbitration by SBMA must occur through notification by letter from SBMA through its director. The parties, however, may continue to negotiate or mediate even as the discussions technically move into the next phase of the process.

If an agreement is mediated, then, similar to a negotiated agreement, the bargaining representative of the municipality files the contract with the town clerk within 14 days of the date on which the agreement was reached. Only contracts where the municipal employer is the “town” must be filed with the town clerk.

⁵ The Federal Mediation and Conciliation Service is an independent agency that provides mediation and conflict resolution services to industry, government agencies and communities. The Association of Labor Relations Agencies promotes cooperation, high professional standards, and the exchange of information among impartial government agencies in the United States and Canada responsible for administering labor management relations laws or services.

If, after 30 days, the legislative body of the municipal employer fails to reject the agreement, then it is considered final and binding. If the agreement is rejected, then the parties will begin the arbitration process.

Mediators. By statute, MERA requires that there be at least five mediators, who are full-time employees of the Department of Labor, available to mediate interest and grievance disputes should a mediator be requested. There are currently two full-time mediators and two part-time mediators. The SBMA director reports that there have been less than five mediators for approximately five years. The SBMA director further reports no current backlog for mediation services, although finding times to meet given coordination of multiple schedules can be a challenge.

With the advice and approval of SBMA, the commissioner of labor appoints the mediators. The mediators often have an extensive background in labor management. The official job description includes the following:

- considerable knowledge of the National Labor Relations Act, and state acts governing labor relations;
- considerable knowledge of contract grievance mediation, conciliation, and arbitration methods and procedures;
- considerable interpersonal and negotiating skills;
- considerable ability to mediate and conciliate labor disputes and to act as an impartial agent; and
- eight years experience in professional labor relations or human resource management involving responsibility for employee relations or collective bargaining issues, with two of the years having been in the arbitration, mediation, or conciliation of labor problems.

The governor may also request that the commissioner of labor step in to mediate a dispute, if necessary.

Applicants for mediator positions are first reviewed by the commissioner. Following the review, names are forwarded to SBMA. The board must approve an applicant unanimously in order to be appointed to the panel of mediators. Once appointed, the mediators have their own territories of towns and unions with whom they work.

Arbitration

MERA identifies four situations in which binding and final arbitration is imposed: 1) within 30 days after a contract has expired; 2) within 30 days after contract revision negotiations have begun; 3) within 30 days after a reopener date for negotiations as spelled out in the current agreement; or 4) within 180 days after the certification or recognition of a newly certified or recognized municipal employee organization.

Arbitration Process

Panel selection. SBMA is required to mail written notification that binding arbitration is to commence, and that each party must select an arbitrator to represent its interests (i.e., choose an advocate arbitrator) within 10 days of notification. The written notification must be sent to each party and delivered via registered or certified mail, return receipt requested. Occasionally, both parties may stipulate to using a single neutral arbitrator rather than a tripartite panel.

Should either party fail to choose an advocate arbitrator, then an arbitrator will be randomly selected by SBMA. In almost all instances, however, the town CEO and union each select one arbitrator within 10 days of receipt of the written notification. The two parties may select arbitrators from the list of permanent and alternate management and labor SBMA members, or they may select from outside this list.

If a management or labor arbitrator is not chosen within 10 days, then SBMA must appoint an arbitrator through a random selection process. According to the SBMA director, this occurs perhaps three or four times per year.

Within five more days, the two arbitrators together must select a third arbitrator from the panel of neutral arbitrators. The two arbitrators receive notification of one another's selection and their responsibility to select a neutral arbitrator from the panel of neutral arbitrators. They may not select from outside the panel of neutral arbitrators. If the management and labor arbitrators cannot agree on the selection of a neutral arbitrator, then the SBMA director will randomly select the neutral arbitrator from the panel of neutral arbitrators.

Neutral arbitrators, in their capacity as single arbitrators or chairs of three-member arbitration panels, are responsible for all facets of the arbitration process. Included in their primary responsibilities are coordinating and conducting arbitration hearings, recordkeeping of proceedings, receiving and maintaining evidence presented as part of the arbitration hearing process, and writing up final arbitration awards.

During the time that the arbitrators are being selected, the two parties may continue to negotiate or mediate their differences. Agreements may be reached prior to completion of the arbitration process and, should agreement be reached on all remaining outstanding issues, then the contract is said to have been settled by the parties, albeit during arbitration. It is treated as a negotiated or mediated agreement and is subject to review by the local legislative body. It is not considered a stipulated award, as is the case under TNA.

In 1995, the Connecticut Supreme Court ruled (*IBPO v Jewett City*, 234 Conn 123) that under MERA, a complete stipulation in arbitration is not considered a binding/arbitrated award; it is an agreement derived by the parties and, as such, must be submitted to the local legislative body for consideration. (A similar challenge has not occurred under TNA.) Essentially, under MERA, an award will only be issued when there is an actual impasse.

Hearing(s). If no agreement is reached by the formal start of binding arbitration, then a "bump and run" meeting will be held. According to statute, this initial meeting is to be convened in the municipality by the neutral arbitrator within 10 days of his/her selection or appointment.

At this meeting, the parties will usually select hearing dates and identify the issues that will be submitted to the arbitration panel. As stated earlier, all timeframes may be waived.

The statute sets out that the hearing process may occur over multiple days, but must be within a 20-day time period from start to finish. The panel chair presides at the hearing(s); however, any member of the arbitration panel can take testimony, administer oaths, and subpoena persons, records or other documents.

At least two days prior to the first hearing date, each party gives the chairperson their proposal. The proposal is required to have numbered paragraphs and costs for each provision.

At the beginning of the hearing, each side will file with the arbitration panel a list of provisions it accepts and a list of provisions it is unwilling to accept. Alternate contract language to substitute for what is unacceptable is also submitted. At any time during the negotiating process, both parties may inform the panel of conditions or demands that they both accept.

At the hearing, the two parties present evidence to the tripartite panel (or single arbitrator, if the parties so choose) in the form of exhibits and testimony. Some of the larger unions have representatives who will present the evidence; in other instances, the party's attorney may present the evidence. The fiscal authority of the town may also present evidence during the hearing.

Both sides will often present written information that addresses the MERA criteria, as discussed below. Numerous fiscal indicators may be provided to make a party's case. There are also multiple ways to present "comparables" or comparisons with other towns within close geographic proximity, size, or economic situation. Although MERA does not currently address the issue of reserve fund, similar to TNA, this information is often included in the evidence presented.

Briefs/last best offers. Within five days after the testimony concludes, the panel forwards an arbitration statement to each party with the agreements, as well as numbered paragraphs of issues still unresolved. Within ten days after the testimony ends, MERA requires the two sides to file their last best offers (LBOs) on the unresolved issues with SBMA, which distributes copies to the other side. In practice, the parties exchange LBOs directly, provide copies to the arbitrator(s), and usually send copies to SBMA.

As noted earlier, because the MERA statute permits the parties to modify, defer, or waive any provisions, the process rarely adheres to the statutory timeframes. In addition to waiving the timelines, the two parties may change the order of events so that the two sides file briefs prior to their last best offers.

Within seven days of distributing the copies of the last best offers, MERA requires the sides to file briefs on the unresolved issues with SBMA. As before, SBMA is to then distribute copies to the other side. Reply briefs are then exchanged within five days, responding to the briefs on the unresolved issues. MERA requires this exchange to occur through submission of the briefs to SBMA, which then distributes copies to the other side. In practice, the parties exchange briefs and reply briefs directly, provide copies to the arbitrator(s), and often—but not always—send copies to SBMA.

Executive session. Within 20 days of distributing copies of the reply briefs, the panel, by majority vote if a tripartite panel, decides any remaining unresolved issues. The neutral arbitrator may hear the arguments of both sides while in executive session with the management and labor arbitrators. The panel is limited to choosing one or the other side's last best offer on each outstanding issue.

Criteria. The factors that the arbitrators must use in choosing a last best offer are also specified in MERA. They include assessing the:

- 1) prevailing wages, salaries and fringe benefits in the labor market;
- 2) municipal employer's ability to pay;
- 3) interests and welfare of the employees;
- 4) negotiations between the employer and union prior to arbitration;
- 5) public interest;
- 6) changes in the cost of living; and
- 7) employee group's working conditions and those of similar groups.

Part of the panel's decision is to include the specific reasons and criteria used in making a choice on each unresolved issue. In their decisionmaking, the arbitrators are required by statute to give priority to "public interest" and the "financial capability of the municipal employer."

The remaining criteria must be considered within the context of financial capability. These criteria include negotiations between the parties prior to arbitration. While what was discussed during mediation remains confidential, the parties' offers during negotiations are included in the decisionmaking process.

The interests and welfare of the employee group must also be considered, as well as changes in the cost of living. Unlike TNA, which, requires that a three-year-average of the cost-of-living be used, MERA does not specify a particular time period.

Existing conditions of employment of the employee group and similar groups are also considered, as well as the wages, salaries, fringe benefits and other conditions of employment in the prevailing market. The prevailing market often includes developments in the private sector regarding wages and benefits, as well as contracts recently settled within the municipality.

Award. The arbitration award must be filed with the town clerk by the bargaining representative of the municipality (e.g., the town or board of education). If, after 25 days, the legislative body of the municipality fails to reject the award, then it is considered final and binding. Unlike rejection of a negotiated or mediated settlement, arbitrated awards may be rejected based on any of the issues, and are not limited only to disputed issues that involved a request for funds.

Rejection requires a two-thirds majority vote of the members present during a regular or special meeting called and convened to consider the award. If the award is rejected, the local legislative body is required to submit a written statement giving the reasons for rejecting the award to SBMA and the municipal employee organization within 10 days of the vote. Within 10 days of receiving this document, the employee organization submits a written response to the

legislative body and to SBMA. The parties now enter the review, or second panel, phase of arbitration.

Review Panel Arbitration

Within 10 days of receiving the rejection notice, SBMA appoints three neutral arbitrators who were not part of the first arbitration panel to serve as a review panel. One review arbitrator may be appointed if both parties agree. This second panel of arbitrators is selected from the review panel of neutral arbitrators maintained by the SBMA. (A list of review panel members is provided later.)

The review panel must consider the record and briefs of the hearing, reasons for the vote, and parties' responses. The review panel must continue to adhere to the same criteria used by the first arbitration panel.

The review panel has 20 days to conduct its review. The second panel is charged with examining *all* disputed issues, not only the issues that led to rejection of the arbitration award. Decisions made by the review panel must be chosen from among the two parties' last best offers.

The review arbitrators have five days from completion of their review to make their decision and put it in writing. The written decision must include the specific reasons and criteria used by each arbitrator as to why he or she chose a particular last best offer. The decision is filed with both parties with the cost of the review panel arbitrators paid by the local legislative body.

Appeal to Court

The MERA statute states that the decision of the second panel is final and binding. The only option open at this point is for the award to be appealed to the superior court for motion to vacate or modify the arbitrators' decision. The Connecticut Supreme Court has held that arbitrated awards, including awards that occur under the MERA statute, are subject to the statutes governing motions to modify or vacate.

The motion to modify or vacate a review panel arbitration award must be filed within 30 days of the award. Both SBMA and the state attorney general must be notified of this filing within five days of its occurrence. Parties may present witnesses, with the burden of proof residing with the party seeking to overturn the award.

Awards may be vacated if there are questions about the legality or correctness of the decision. Awards may be modified to correct technical or typographical errors an arbitration award that is otherwise considered valid.

Preliminary Analysis

Data Collection Issues

There are two points in the process where knowledge of the contract expiration date is key: 1) appointment of a mediator; and 2) imposition of binding arbitration. According to statute and SBMA regulations, the board is to provide municipal employers with a specific form to be completed within 30 days after the approval of each municipal collective bargaining agreement. Information provided on the form includes the approval date and expiration date of the new contract.

This information is entered into the SBMA tickler system and used to track progress on negotiation of the next contract. The board's staff acknowledges, however, that not all municipalities complete and/or return the required form on a routine basis. As such, the database maintained by SBMA to capture this information does not reflect a fully comprehensive accounting of municipal contracts; thus, it is unknown how many contracts have been negotiated under MERA. The following analysis, therefore, should be considered with this limitation in mind.

SBMA estimates that each municipality may negotiate between four to seven MERA contracts during a given year, with each contract averaging approximately three years in length. The board's staff is aware of at least 217 contracts that were due to expire during FY 05. This figure represents only those contracts the board is aware of because the town: 1) followed proper procedure and submitted the required form to the board following a previously-negotiated contract; or 2) had previously used SBMA mediation or arbitration services triggering the board to begin monitoring the town's contracts. The figure does not, however, represent the universe of all expired contracts in that year. Analysis of MERA contracts outcomes is further complicated by the incomplete SBMA data. Committee staff has begun to identify additional data sources for analyses, including the Connecticut Conference of Municipalities, Connecticut Association of Boards of Education, and law firms involved in the collective bargaining process.

SBMA maintains original paper copies of all MERA arbitration awards dating back at least 10 years. Additionally, SBMA is in the process of scanning arbitrated awards into their computer system, and committee staff will further analyze both sources of information.

Contract Settlements

Table II-1 shows the number of contracts settled for municipal employees during FYs 2002-2005, based on multiple data sources. This preliminary analysis combines information from: 1) SBMA database; 2) the Connecticut Conference of Municipalities; 3) the Connecticut Association of Boards of Education; and 4) Shipman & Goodwin, LLP, a Connecticut law firm.

Initial estimates show at least 1,034 contracts were settled under MERA during the most recent four fiscal years, for an average of 258 contracts settled annually. Towns were the employers for 56 percent of contracts negotiated under MERA, boards of education were the

employers for 40 percent, and other municipal employers such as housing authorities, public utilities and transit authorities, were the employers for the remaining four percent of contracts.

Table II-1. Contract Settlements: Municipal Employee Relations Act (FYs 02-05)				
Fiscal Year	Total Contracts	Town	BOE	Other
2002	254	134 (53%)	107 (42%)	13 (5%)
2003	363	200 (55%)	150 (41%)	13 (4%)
2004	258	152 (59%)	93 (36%)	13 (5%)
2005	159	92 (58%)	63 (40%)	4 (2%)
Total	1,034	578 (56%)	413 (40%)	43 (4%)

Source: SBMA, Shipman & Goodwin, LLP, Connecticut Conference of Municipalities, Connecticut Association of Boards of Education, and LPR&IC Staff Analysis.

Town as employer. The most numerous collective bargaining units that negotiate with “town” as the employer during FYs 02-05 are shown in Table II-2. Public works employee units are most frequent, followed by police, management/supervisors, and fire fighters. (Police dispatchers are often in a collective bargaining unit separate from the police.) As previously mentioned, some collective bargaining units combine several occupations, such as maintenance and clerical, or town hall and public works, and are known as split unions.

Table II-2. Collective Bargaining Units of “Town” Employers: FYs 02-05		
Collective Bargaining Unit	Number of Contracts	Percent
Public Works	105	19%
Police	109	19%
Management, Supervisors	54	10%
Fire Fighters	54	10%
Town/City Hall	38	7%
Dispatchers	31	5%
Clerical	22	4%
White Collar, Professional	20	3%
Combinations (“Split unions”)	66	12%
Other	63	11%
TOTAL	562¹	100%

¹ No information was available on collective bargaining unit for 16 contracts where the town was the employer.
Source: SBMA, Shipman & Goodwin, LLP, Connecticut Conference of Municipalities, and Connecticut Association of Boards of Education and LPR&IC Staff Analysis.

Boards of education as employer. The most numerous collective bargaining units that negotiate with “boards of education” as the employer for FYs 02-05 are shown in Table II-3. The paraprofessionals are most frequent, followed by custodians and clerical staff. Other less-common collective bargaining units include bus drivers and white collar, professional staff (non-teachers). Again, some collective bargaining units combine several occupations, such as secretaries and paraprofessionals, or custodians and cafeteria workers.

Collective Bargaining Unit	Number of Contracts	Percent
Paraprofessionals	106	26%
Custodians	72	17%
Clerical	65	16%
Cafeteria Workers	38	9%
Nurses	36	9%
Combinations	72	17%
Other	24	6%
TOTAL	413	100%

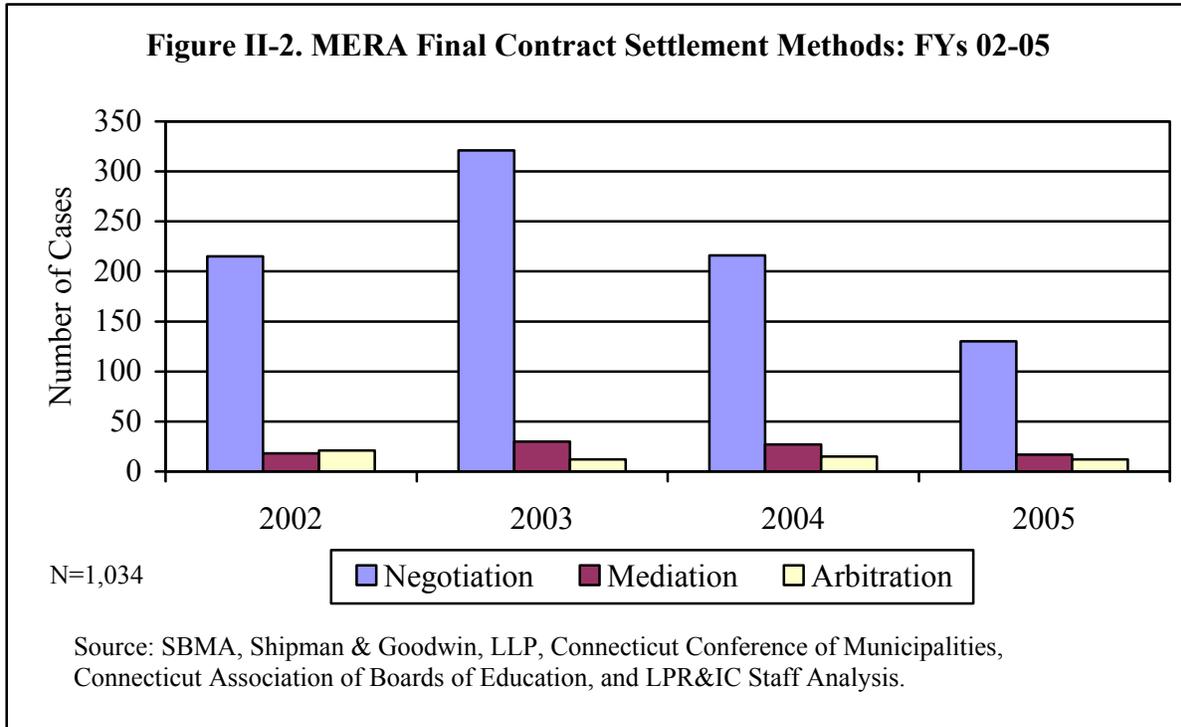
Source: SBMA, Connecticut Conference of Municipalities, and Connecticut Association of Boards of Education, Shipman & Goodwin, LLP, and LPR&IC Staff Analysis.

Settlements by Resolution Method

Contracts under MERA are settled through negotiation, mediation, or arbitration. Figure II-2 shows the settlement method used for the 1,034 contracts during FYs 02-05.

SBMA monitors requests for its mediation services and resulting mediated contracts. There is no centralized tracking system, however, to determine when parties choose to employ an independent mediator. Contracts are often categorized as either “negotiated contracts” (including mediated contracts) or “arbitrated awards”. The number of contracts settled in mediation is therefore underestimated in Figure II-2, since it only includes information obtained on SBMA mediators.

During FYs 02-05, between 82 percent and 88 percent of MERA contracts were settled annually in negotiation. If the mediated contracts are added to these figures, then between 92 percent and 97 percent of MERA contracts are negotiated/mediated annually. While these figures are likely to change somewhat as additional information is obtained and analyzed by committee staff, it is clear that a very small percentage of MERA contracts are resolved through arbitration. In fact, of the 1,034 contracts settled during FYs 02-05, arbitration awards were issued for 60 contracts, or 5.8 percent. (Note that settlement information is missing for at least 300 collective bargaining units.)



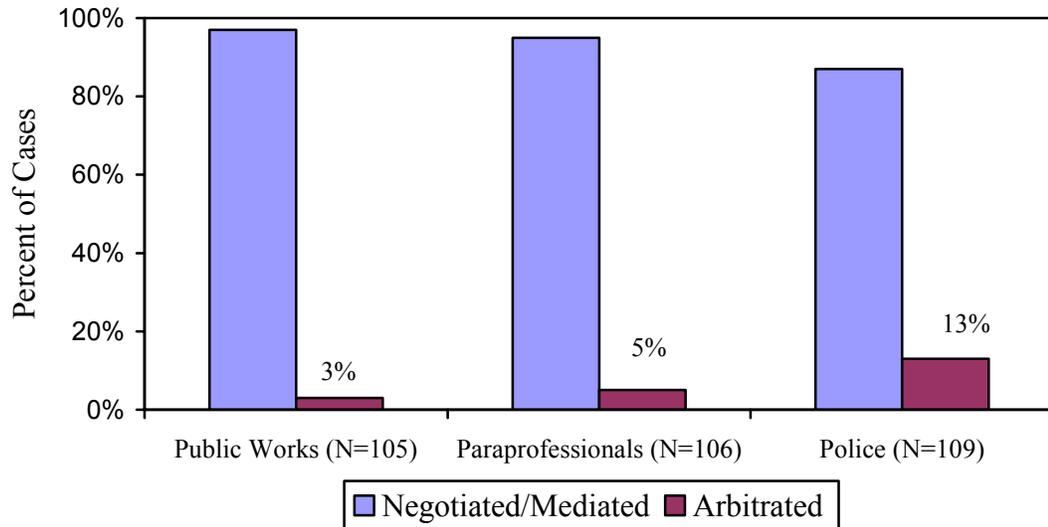
Resolution by Employer

Figure II-3 shows the percent of contracts negotiated/mediated when the MERA employer is “town” versus “board of education”(BOE). In three of the four years, there is a trend of slightly more contracts being negotiated/mediated when the employer is the BOE in comparison to when the employer is the town.

Resolution by Collective Bargaining Unit

The three most numerous collective bargaining units for which there is contract resolution information are public works, paraprofessionals, and police. Figure II-4 shows the FY 02-FY 05 contract settlements for each of the collective bargaining units. In comparison to public works and paraprofessionals, police contracts are more likely to be arbitrated. Of the 109 police contracts settled during FYs 02-05, 14 (13 percent) were resolved through arbitration.

Figure II-4. Comparison of MERA Final Contract Settlement Methods for Three Collective Bargaining Units (FY 02- FY 05)



Source: SBMA, Shipman & Goodwin, LLP, Connecticut Conference of Municipalities, and Connecticut Association of Boards of Education and LPR&IC Staff Analysis

Arbitrations by collective bargaining unit. Table II-4 identifies those collective bargaining units that had more than one arbitration award during FYs 02-05. The table shows police units had the largest number of arbitrated awards during this period, followed by firefighters, supervisors/managers, and paraprofessionals.

Table II-4. Arbitration Awards Under MERA by Collective Bargaining Unit: FYs 02-05

Collective Bargaining Unit	FY 02	FY 03	FY 04	FY 05	Total
Police	3	4	4	3	14
Fire Fighters	3	0	3	1	7
Supervisors/Managers	2	4	0	0	6
Paraprofessionals	3	0	1	2	6
Water/Sewer/Utilities	0	0	1	2	3
Clerical	2	0	0	2	4
Nurses	0	1	2	0	3
Public Works	2	0	0	0	2

Source: SBMA and LPR&IC Staff Analysis.

Arbitration Review Panels

Second panel arbitrations are even less frequent than first panel arbitrations, with only 10 awards issued between FYs 96-05, as obtained from awards on file with SBMA and shown in Table II-5. For example, there were multiple years when either no arbitration review panel was needed or only one panel was conducted.

Arbitration review panels occurred infrequently, but happened more often during certain fiscal years and for certain collective bargaining units. As shown, more than one review panel arbitration award was issued in FY 96 and FY 97. Further, police units accounted for the most second arbitration awards issued during the period analyzed. Of the 60 first arbitration awards issued during FYs 02-05, two (or three percent) were rejected by the local legislative body and went to a review panel of arbitrators.

Table II-5. Number of Times Review Panel Arbitrations Occurred: FYs 96-05											
Collective Bargaining Unit	Fiscal Year										Total
	'96	'97	'98	'99	'00	'01	'02	'03	'04	'05	
Police	2				1				1		4
Fire Fighters	1									1	2
Town Hall	1										1
Custodians		2									2
Paraprofessionals/ Lunch Room Personnel		1									1
TOTAL	4	3	0	0	1	0	0	0	1	1	10

Source: SBMA and LPR&IC Staff Analysis.

MERA Neutral Arbitrators

Neutral Arbitrator Appointment Process

In 1992, MERA was changed to establish a statutory process for selecting a panel of neutral arbitrators to carry out the binding arbitration phase. A panel of at least 20 neutral arbitrators was created to chair arbitration panels in the first round of arbitration. Another change in 1992 was to reduce the terms of the MERA panel of neutral arbitrators from four to two years.

As shown in Figure II-5, the neutral arbitrator selection process begins with the state labor commissioner appointing a neutral arbitrator selection committee. The selection committee has 10 members, equally divided between employee and employer representatives. By law, one of the employer representatives must be a representative of the Connecticut Conference of Municipalities. Each selection committee member serves a four-year term and may be reappointed an unlimited number of times. SBMA does not have any say in the appointment of the of neutral arbitrator panel.

The neutral arbitrator selection committee recruits neutral arbitrator candidates, with the director of SBMA facilitating the recruitment process. Openings are advertised in newspapers, the Connecticut Law Tribune, Quinnipiac and UConn Schools of Law, through mailings by the American Arbitration Association, and other sources. An opening typically attracts anywhere from 30 to 70 applicants.

The neutral arbitrator selection committee selects the panel of at least 20 neutral arbitrators. The committee members review resumes, and each neutral arbitrator must be selected by a unanimous vote. Appointed to two-year terms, the neutral arbitrators must be Connecticut residents and represent the public's interest. The MERA arbitrators are often attorneys with extensive experience in impasse resolution. Any arbitrator may be removed for good cause.

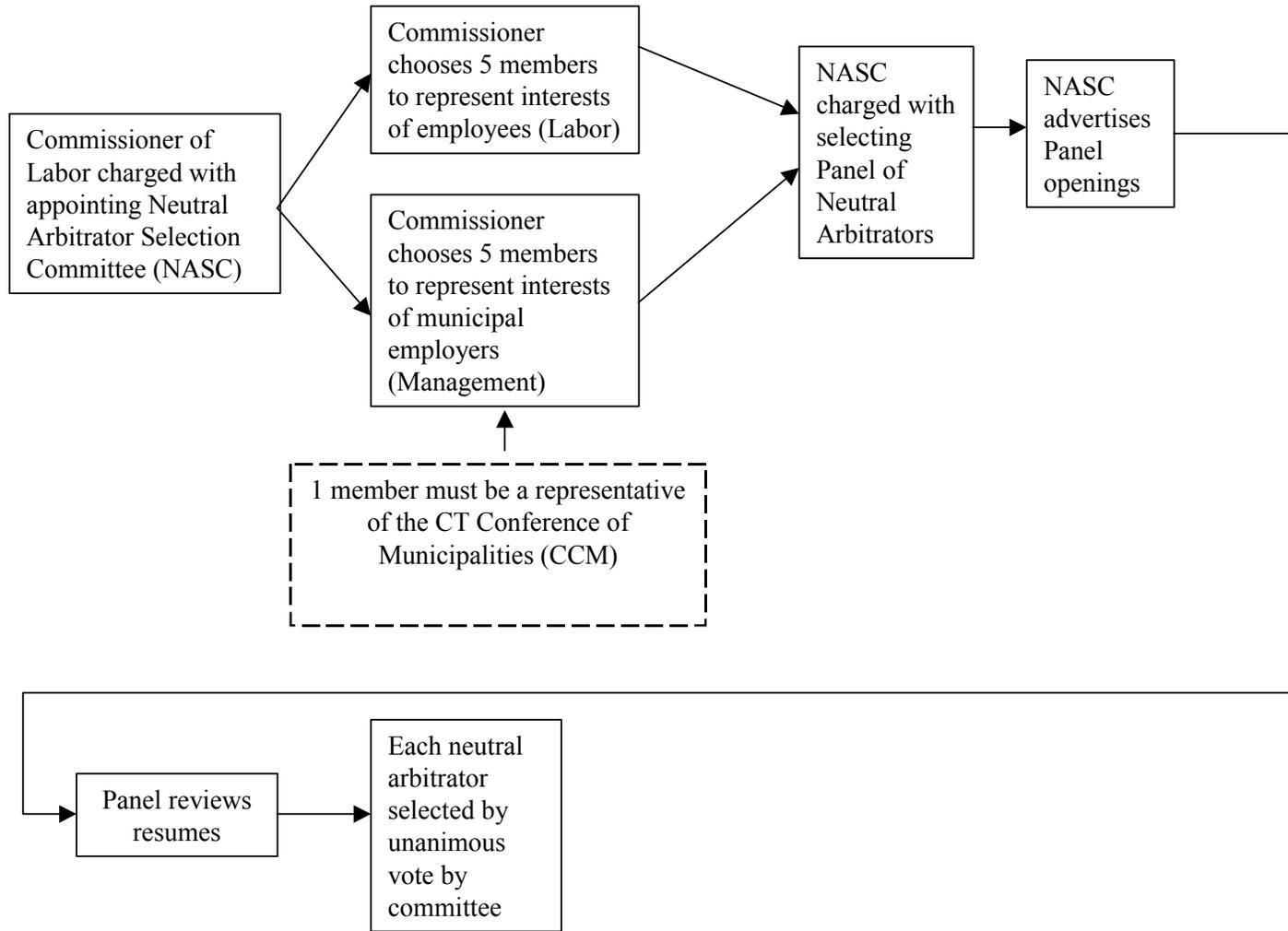
The neutral arbitrator selection committee also determines subsequent reappointment of current neutral arbitrators. Each subsequent reappointment must also be unanimous by the selection committee. The current list of arbitrators is reviewed by members of the committee to assure that there have been no issues or complaints concerning a particular arbitrator. The commissioner of labor also questions whether there have been any complaints about any of the arbitrators, such as holding unfair hearings.

Prior to expiration of their terms, current arbitrators are sent letters asking if they want to be reconsidered for appointment on the arbitration panel. Most recently, the director of the Board of Mediation and Arbitration reported that all responded in the affirmative, save one who is retiring.

Current Panel of Neutral Arbitrators

There are currently 17 members on the panel of neutral arbitrators. Since its inception, the panel has never met the 20 neutral arbitrator minimum. According to the SBMA director, the panel is currently down a few members due to retirement and other reasons. Should the membership dip significantly lower, then the neutral arbitration selection committee may be reconvened sooner than its regularly scheduled biennial meeting, and appoint new members to fill midterm vacancies.

Figure II-5. Process for Appointing the MERA Panel of Neutral Arbitrators



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Source: Department of Labor and LPR&IC staff.

Table II-6 lists all current members on the panel of neutral arbitrators. The arbitrators are primarily attorneys, and two-thirds have served since the panel of neutral arbitrators was established 15 years ago. The term of expiration for all current panel members is November 22, 2006.

Table II-6. Panel of Neutral Arbitrators: Municipal Employee Relations Act 2005			
Arbitrator	Location	Years on Panel	General Background
Ruben E. Acosta	Simsbury	7	Attorney
Sandra Biloon	West Hartford	15	Professor
Peter R. Blum	Hartford	15	Attorney
Laurie G. Cain	Simsbury	15	Attorney
Joseph M. Celentano	Columbia	7	Attorney
David A. Dee	Hartford	7	Attorney
Charles DiFazio	Neutral	2	Attorney
Katherine C. Foley	Middletown	15	SBLR Agent
J. Larry Foy	Simsbury	15	Attorney
Susan E. Halperin	West Hartford	15	Attorney
Richard H. Kosinski	New Britain	7	Attorney
Susan R. Meredith	New Haven	15	Attorney
Albert Murphy	Hartford	15	Attorney
Louis P. Pittoco	Greenwich	15	Attorney
Thomas J. Staley	New Haven	15	Attorney
M. Jackson Webber	Hartford	15	Attorney
Gerald T. Weiner	Woodbridge	7	Attorney
*Arbitrators do not receive compensation from the state for their services. A per-diem rate is established by each arbitrator and parties to the arbitration are responsible for evenly dividing neutral arbitrator fees. Source: SBMA			

Advocate Arbitrators

Arbitrators representing the interests of management or labor are also part of the arbitration process. Appointed by the governor, these arbitrators are members of SBMA. Two of the permanent members of the board represent the interests of management and two of the permanent members represent the interests of labor. Of the current 36 alternate SBMA members, 25 represent the interests of management and 11 represent the interests of labor. The current advocate arbitrators are listed in Appendices D and E.

MERA has no statutory qualifications that municipalities and unions have to follow when selecting arbitrators to represent their party's interests; they may select outside of the SBMA member list of labor and management arbitrators.

Review Panel of Arbitrators

Table II-7 provides general descriptive information about the 10 arbitrators currently serving on the review panel of neutral arbitrators. Seven of the ten review panel arbitrators are also on the neutral arbitration panel.

MERA review panel arbitrators must be state residents and labor relations arbitrators approved by the American Arbitration Association (instead of simply being members of the association). Additionally, the arbitrators on the review panel may not have been previous members of the first panel that issued the rejected award.

Although not specified in statute or regulations, the original review panel members are selected to serve on the panel by a subcommittee of SBMA. The subcommittee has since disbanded. There is no minimum or maximum number of review panel members and there are no term limits. Should the need to appoint arbitrators to the review panel arise in the future, then a subcommittee of SBMA would be reconvened for this purpose.

Table II-7. Review Panel of MERA Neutral Arbitrators: 2005				
Arbitrator	Location	Years on Panel	Term Expiration	General Background
Peter R. Blum	Hartford	12	When replaced	Attorney
J. Larry Foy	Simsbury	12	When replaced	Attorney
Susan E. Halperin	West Hartford	12	When replaced	Attorney
Rev. Daniel E. Johnson	Wallingford	12	When replaced	Reverend
Susan R. Meredith	New Haven	12	When replaced	Attorney
William Milligan	Torrington	12	When replaced	Retired Manufact. Labor Relations Mgr.
Thomas J. Staley	New Haven	12	When replaced	Attorney
Louis P. Pittoco	Greenwich	12	When replaced	Attorney
Frederick F. Ward	West Hartford	12	When replaced	Attorney
M. Jackson Webber	Hartford	12	When replaced	Attorney
*Arbitrators do not receive compensation from the state for their services. A per-diem rate is established by each arbitrator and parties to the arbitration are responsible for covering arbitrator fees.				
Source: SBMA				

Arbitrator Compensation

No arbitrator, either first or second panel, receives compensation from the state. Each arbitrator establishes a per-diem rate and the costs for the neutral arbitrator are equally divided between the municipal employer and municipal employee parties.

The fees often include hours of service for hearings, study time and report preparation. Fees also include travel, meals, lodging, mailing and photocopying. SBMA does not maintain a current list of MERA arbitrator fees. The State Department of Education maintains this information for TNA arbitrators, and rates are probably comparable, with fees ranging from \$750 to \$1,400 per day, with an average rate of \$1,100 per day.

The municipal employer pays the costs for the management arbitrator and the municipal employee union pays the costs for the labor arbitrator. Arbitrator costs resulting from any review panel arbitrations are incurred by the municipality.

Preliminary Arbitrator Analysis

Although the panel of neutral arbitrators contains at least 17 members, only a handful actually serves. Table II-8 lists the neutral arbitrators that served on a panel during FYs 02-05. Of those, three neutral arbitrators accounted for 83 percent of the 60 awards issued during FYs 02-05.

Table II-8. Number of Times Served as MERA Neutral Arbitrator: FYs 02-05					
Arbitrator	FY 02	FY 03	FY 04	FY 05	Total
Thomas J. Staley	12	4	4	3	23
M. Jackson Webber	6	3	4	5	18
J. Larry Foy	3	3	1	2	9
Joseph M. Celentano		1	1		2
Susan E. Halperin			2		2
Albert Murphy			2		2
David A. Dee				1	1
Susan R. Meredith			1		1
Louis P. Pittocco		1			1
Gerald T. Weiner				1	1
TOTAL	21	12	15	12	60

Source: SBMA and LPR&IC Staff Analysis.

Section 3: Comparative Analysis

One goal of the study is to identify and summarize the similarities and differences between the Teacher Negotiation Act and the Municipal Employee Relations Act regarding binding arbitration. Although TNA and MERA are described in detail in Sections 1 and 2, this section provides a synopsis of the main similarities and differences between the two acts in several key areas, including: 1) scope of bargaining and employees covered; 2) type of binding arbitration used; 3) collective bargaining timeframes and flexibility; 4) arbitrator appointment and selection; 5) roles of local fiscal authorities and legislative bodies; 6) role of mediation; 7) arbitration awards; and 8) statutory criteria used in arbitration. Tables III-1 and III-2 highlight these similarities and differences between TNA and MERA.

Table III-1. TNA and MERA Binding Arbitration: Comparative Analysis		
MAIN SIMILARITIES		
Component	TNA	MERA
Scope of collective bargaining encompasses wages, hours, and other conditions of employment	✓	✓
Employees legally prohibited from striking	✓	✓
Binding arbitration used to resolve impasse in contract negotiations in lieu of strikes	✓	✓
“Last best offer, issue by issue” form of binding arbitration used	✓	✓
Either a three-member arbitration panel or single neutral arbitrator may be used as agreed to by the parties	✓	✓
Neutral arbitrators chair arbitration panels	✓	✓
Arbitrators to emphasize public interest and municipality’s ability to pay when choosing last best offers	✓	✓
Local legislative body can reject arbitration award within 25 days of receipt on any grounds with a two-thirds vote of members present	✓	✓
Second binding arbitration occurs upon rejection of first arbitration award; second panel only reviews first panel record	✓	✓
Arbitration panel members serve two year terms	✓	✓
Parties may file motion to vacate or modify review panel award with superior court	✓	✓

MAIN DIFFERENCES		
Component	TNA	MERA
Enactment of binding arbitration law	1979	1975
Employees covered	Teachers and school administrators	Municipal employees; non-certified school employees
Statutory deadlines for collective bargaining process	Yes	All can be waived
State agency administering law	Department of Education	Department of Labor
Mandatory consultation with the town's fiscal authority prior to negotiation process	Yes	No
Provision to exclude reserve fund when determining town's ability to pay	Yes	No
When considering town's financial capability, consider changes in the cost of living	Average COLA changes over three years	Only consider COLA changes
Mediation mandatory step before arbitration	Yes	No
Mediators are state employees	No (independent/private sector)	Yes
Time allocated for mediation	25 Days	100 Days
How candidates are appointed to the panel of neutral arbitrators	Requires gubernatorial approval and full legislative consent of candidates that have already passed an interview by a committee appointed by the education commissioner	More streamlined process that requires a neutral arbitrator selection committee to unanimously approve a candidate
Basis of negotiation timetables	Local budget submission date	Contract expiration date
Contract required to be in place by a certain date	Yes	No
		Legislative body only reviews

Grounds for legislative body rejecting negotiated or mediated agreement	Any grounds	contract components requiring funds
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Criteria

Arbitrators must follow seven criteria under both TNA and MERA when deciding arbitration awards, as highlighted in Table III-2. Both statutes require arbitrators to emphasize “public interest” and the municipality’s “ability to pay” criteria when considering awards.

The following four criteria are relatively identical:

- 1) public interest;
- 2) negotiations between the parties prior to arbitration;
- 3) interests and welfare of the employee group; and
- 4) existing conditions of employment of the employee group and those of similar groups.

Table III-2. TNA and MERA Arbitration Criteria: Similarities and Differences		
Criterion	TNA	MERA
Public Interest	✓	✓
Financial Capability	Financial capability of the town or towns in the school district, including consideration of other demands on the financial capability. In assessing the financial capability, there shall be an irrebuttable presumption that a budget reserve of 5% or less is not available for payment of the cost of any item subject to arbitration	Financial capability of the municipal employer, including consideration of other demands on the financial capability of the municipal employer
Negotiations between the parties prior to arbitration	✓	✓

The interests and welfare of the employee group	✓	✓
Cost of living changes	Changes in the cost of living averaged over the preceding three years	✓
Existing conditions of employment of the employee group and those of similar groups	✓	✓
Salaries and benefits prevailing in the market	The salaries, fringe benefits, and other conditions of employment prevailing in the state labor market, including the terms of recent contract settlements or awards in collective bargaining for other municipal employee organizations and developments in private sector wages and benefits	The wages, salaries, fringe benefits, and other conditions of employment prevailing in the labor market, including developments in private sector wages and benefits

There is variation between the two acts on the following three criteria:

- 1) Financial capability assessment under TNA excludes five percent or less of a town's budget reserve; MERA does not reference the budget reserve in assessing financial capability.
- 2) Under TNA, changes in the cost of living are assessed by averaging the preceding three years; MERA only references the consideration of changes in the cost of living.
- 3) Under TNA, the salaries and benefits prevailing in the market specify inclusion of the terms of recent contract settlements or awards in collective bargaining for other municipal employee organizations; no such mention of other municipal employees organizations—or teacher or administration collective bargaining settlements or awards—is included under MERA when referencing this criteria.

APPENDICES

Appendix A

2005-06 PANEL OF TNA MEDIATORS

Mediator	Location
Ruben Acosta	Simsbury
Peter Adomeit	West Hartford
Wendella Battey	Hartford
Nan Birdwhistell	Woodbridge
Peter Blum	Hartford
Susan Boyan	Vernon
Diane Zaar Cochran	Newtonville, MA
Leeland Cole-Chu	New London
J. Larry Foy	Simsbury
Susan Eileen Halperin	West Hartford
William DeVane Logue	West Hartford
Albert Murphy	Hartford
Rocco Orlando	Bethany
Nancy E. Peace	Newbury, MA
Frederick F. Ward, II	West Hartford
M. Jackson Webber	Hartford
Paul Zolan	Hartford

Source: Department of Education

Appendix B

2005-06 TNA ARBITRATORS REPRESENTING BOARDS OF EDUCATION

Arbitrator	Location
Brian Clemow	Hartford
Floyd Dugas	Milford
Donald Houston	Bridgeport
Loren Lettick	Wallingford
John Romanow	New Haven
Victor Muschell	Torrington
Dale Roberson	Ellington
Source: Department of Education	

2005-06 TNA ARBITRATORS REPRESENTING CERTIFIED EMPLOYEES

Arbitrator	Location
Gerald Braffman	Orange
Kevin Deneen	Windsor
Brian Doyle	Rocky Hill
James Ferguson	Rocky Hill
John Gesmonde	Hamden
Martin A. Gould	Hartford
Clifford Silvers	Milford
Source: Department of Education	

**STATE BOARD OF MEDIATION AND ARBITRATION
MANAGEMENT MEMBERS**

Arbitrator	Location	SBMA Membership Status
David A. Ryan	Milford	Permanent
Michael C. Culhane	Waterbury	Permanent
Joseph E. Arborio	Wethersfield	Alternate
J. Stuart Boldry	East Woodstock	Alternate
Carroll A. Caffrey	Durham	Alternate
Daniel A. Camilliere	Wethersfield	Alternate
Robert V. Canning	North Branford	Alternate
Keith H. Chapman	Newington	Alternate
James B. Curtin, Esquire	North Haven	Alternate
David J. Dunn	Stratford	Alternate
William Goggin	Naugatuck	Alternate
John Leverty	Fairfield	Alternate
Frank H. Livingston	Manchester	Alternate
Harold S. Lynch, Jr.	Middlebury	Alternate
Tanya J. Malse	Southington	Alternate
Marc S. Mandell, Esquire	Norwich	Alternate
John B. Margenot, Jr.	Cos Cob	Alternate
Robert A. Massa	Wethersfield	Alternate
Russell J. Melita	Bethlehem	Alternate
Victor M. Muschell, Esquire	Torrington	Alternate
John F. O'Connell	Bridgeport	Alternate
Richard A. Podurgiel	Norwich	Alternate
John M. Romanow, Esquire	New Haven	Alternate
Betty H. Rosania	Wethersfield	Alternate
Frederick T. Sullivan	Waterbury	Alternate
Timothy Sullivan, Esquire	New Britain	Alternate
Louis Smith Votto, Esquire	West Haven	Alternate
Source: State Board of Mediation and Arbitration		

Appendix E

STATE BOARD OF MEDIATION AND ARBBITRATION LABOR MEMBERS

Arbitrator	Location	SBMA Membership Status
Michael J. Ferrucci, Jr.	North Haven	Permanent
Raymond D. Shea	West Hartford	Permanent
Robert H. Brown	Watertown	Alternate
John P. Colangelo	West Hartford	Alternate
Barbara J. Collins, Esquire	Hartford	Alternate
Louis DeFilio	Branford	Alternate
Giro Esposito, Jr.	North Haven	Alternate
Frank R. Krzywicki	Shelton	Alternate
Dominick Lucenti	Bristol	Alternate
Madeline M. Matchko	Farmington	Alternate
David B. Mulholland	Tolland	Alternate
Anthony Truini	Trumbull	Alternate
Lionel Williams	Essex	Alternate

Source: State Board of Mediation and Arbitration