

KEY POINTS

BINDING ARBITRATION FOR MUNICIPAL AND SCHOOL EMPLOYEES

Background

- The state legislature has recognized the right for teachers, administrators, and municipal employees to organize and collectively bargain with their employers since the 1960s.
- The Teacher Negotiation Act (TNA) is the primary state law governing the collective bargaining process for teachers and administrators employed by local or regional boards of education and certified by the state education board.
- The Municipal Employee Relations Act (MERA) is the primary state law governing the collective bargaining process for municipal employees, including non-certified school staff.
- TNA is administered by the Department of Education, while MERA is administered by the Department of Labor
- Connecticut uses the “last best offer, issue by issue,” form of binding arbitration under TNA and MERA. MERA incorporated binding arbitration in 1975, while TNA has required binding arbitration since 1979.
- There have been no teacher, administrator or municipal employee strikes in Connecticut since binding arbitration was implemented.

Collective Bargaining Process

- Labor and management often negotiate contract agreements, a required first step in collective bargaining under both TNA and MERA.
- Oftentimes contract disputes not settled in negotiation may be resolved with the help of a mediator, a required second step in TNA, but optional under MERA.
- TNA and MERA contract disputes that could not be resolved in negotiations or mediation are decided either by a tripartite panel of arbitrators or a single arbitrator.
- Arbitrators base their decisions on seven statutory criteria including prevailing compensation in the labor market, cost of living, prior negotiations, and the welfare of the employees, including working conditions.
- Arbitrators are required by statute to give priority to two of the criteria: “public interest” and “financial capability of the municipal employer”

- Local legislative authorities may reject an arbitration award, triggering a second review by a panel of neutral arbitrators. Second review panel arbitrations are not reviewable by towns.
- Neutral arbitrators under TNA are appointed by the governor upon the advice and consent of the legislature, while under MERA, arbitrators are appointed by a committee selected by the labor commissioner.

Preliminary Analysis

- On average, 105 contracts were settled annually under TNA for teachers and administrators between FYs 99-05. At least 258 contracts were settled annually under MERA for municipal employees during FYs 02-05.
- Very few contracts are settled in arbitration—just 10 percent of TNA contracts and 6 percent of MERA contracts for the respective periods analyzed. Second panel arbitration was used even less frequently.
- TNA mandates deadlines under which the collective bargaining process must occur so contracts may be decided prior to municipal budget submission dates, while MERA timeframes and other statutory provisions may be modified, deferred or waived by mutual agreement of the parties. As a result, teacher and administrator contracts are settled prior to the start of the new school year, while most municipal employee contracts are settled after their contracts have expired.
- While there are at least 10 neutral arbitrators available for the parties to choose from (there are 17 neutral arbitrators under MERA), only a small number are actually selected for arbitration cases. The parties are responsible for mutually selecting the neutral arbitrators to hear their cases.
- 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 10-member neutral arbitrator selection committee to unanimously approve a candidate.
- Agreements made between the parties during arbitration are considered “stipulated arbitration awards” under TNA and not subject to local legislative review, and “negotiated settlements” under MERA, which may be reviewed by local legislative bodies.
- Not all towns inform the State Board of Mediation and Arbitration that a municipal contract has been negotiated. Thus, the number of municipal contracts negotiated under MERA is not fully known.
- A comprehensive list of the collective bargaining units existing in each municipality has not been developed by any state agency.