

## State Employee Union Contract Supersedence Laws

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### Issue

Do the laws in New England states allow provisions in state employee collective bargaining agreements to supersede conflicting state statutes?

### Summary

Among the New England states, only Connecticut and Massachusetts generally allow provisions in state employee collective bargaining agreements to supersede conflicting state statutes; and in Massachusetts, only a specified set of statutes may be superseded. The other New England states largely prohibit their state employee unions from collectively bargaining over issues that would contradict state laws, although Maine does allow for one limited exception. Below is a brief summary of each state's relevant law.

### Connecticut

By law, whenever a provision in a state employee collective bargaining agreement conflicts with a state statute or regulation on matters appropriate to collective bargaining, the agreement's provision prevails once the legislature approves the agreement ([CGS § 5-278](#)). When the parties submit an agreement for the legislature's approval, they must include a request for approval of any provisions that conflict with any statute or regulation, commonly known as a "supersedence appendix" to the agreement.

## Maine

Maine's [State Employees Labor Relations Act](#) generally prohibits state employee collective bargaining over "matters which are prescribed or controlled by public law" ([Me. Rev. Stat. tit. 26, § 979-D](#)). One exception, however, allows contracts to require binding arbitration in grievance procedures, as long as the grievance procedure is exclusive and supersedes any otherwise applicable grievance procedure provided by law ([Me. Rev. Stat. tit. 26, § 979-K](#)).

## Massachusetts

Massachusetts' public employees' labor relations law allows collective bargaining agreements to supersede a list of over 20 specific state statutes ([Mass. Gen. Laws ch. 150E, § 7](#)). Because the law covers state, county, and municipal employees, many of the statutes which may be superseded do not apply to state employees. Among other things, the laws that may be superseded for state employees include those that:

1. require personnel administrators to make rules regulating the use of vacation and sick time ([Mass. Gen. Laws ch. 7, § 28](#)),
2. set compensation requirements for working on holidays ([Mass. Gen. Laws ch. 30, § 24A](#)), and
3. require personnel administrators to make and amend rules governing the establishment and administration of employee classification and pay plans ([Mass. Gen. Laws ch. 30, § 45](#)).

## New Hampshire

New Hampshire's [public employee labor relations law](#) is silent on whether provisions in state employee collective bargaining agreements may supersede conflicting state statutes. However, the law prohibits collective bargaining over "managerial policy within the exclusive prerogative of the public employer, or confided exclusively to the public employer by statute or regulations adopted pursuant to statute." Under the law, "managerial policy within the exclusive prerogative of the public employer" includes the public employer's functions, programs, and methods; organizational structure; and the selection, direction, and number of its personnel, so as to continue public control of governmental functions ([N.H. Rev. Stat. § 273-A:1](#)).

## Rhode Island

Rhode Island's [state employee collective bargaining law](#) is also silent on whether provisions in state employee collective bargaining agreements may supersede conflicting state statutes. However, according to the state's Department of Administration, Division of Human Resources, Labor

Relations Unit, state case law established a general rule that neither the state nor the unions may bargain away statutory rights or obligations through collective bargaining. Thus, if a provision in a collective bargaining agreement conflicted with state statute, the statute would prevail.

## **Vermont**

Similar to Maine, Vermont's [State Employees Labor Relations Act](#) prohibits state employees from collectively bargaining over "matters that are prescribed or controlled by statute" ([Vt. Stat. tit. 3, § 904](#)). It also specifically lists the matters which are appropriate for bargaining, to the extent they are not prescribed or controlled by statute, such as: wages, salaries, and benefits; minimum weekly hours; overtime compensation; and reduction-in-force procedures.

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