

MAINE STATE LEGISLATURE

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129th MAINE LEGISLATURE

FIRST REGULAR SESSION-2019

Legislative Document

No. 1412

H.P. 1025

House of Representatives, March 26, 2019

**An Act To Amend the Laws Governing the Collective Bargaining
Rights of Employees of School Management and Leadership Centers**

Reference to the Committee on Labor and Housing suggested and ordered printed.

A handwritten signature in cursive script that reads "R B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative HANDY of Lewiston.
Cosponsored by Senator LAWRENCE of York and
Representatives: BROOKS of Lewiston, CLOUTIER of Lewiston, CRAVEN of Lewiston,
SYLVESTER of Portland.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 5 MRSA §17001, sub-§42**, as amended by PL 2007, c. 491, §§66 and 67,
3 is further amended to read:

4 **42. Teacher.** "Teacher" means:

5 A. Any employee of a public school or a school management and leadership center
6 established pursuant to Title 20-A, chapter 123 who fills any position that the
7 Department of Education requires be filled by a person who holds the appropriate
8 certification or license required for that position and:

9 (1) Holds appropriate certification from the Department of Education, including
10 an employee whose duties include, in addition to those for which certification is
11 required, either the setup, maintenance or upgrading of a school computer system
12 the use of which is to assist in the introduction of new learning to students or
13 providing school faculty orientation and training related to use of the computer
14 system for educational purposes; or

15 (2) Holds an appropriate license issued to a professional employee by a licensing
16 agency of the State;

17 B. Any employee of a public school or a school management and leadership center
18 established pursuant to Title 20-A, chapter 123 who fills any position not included in
19 paragraph A, the principal function of which is to introduce new learning to students,
20 except that a coach who is employed by a public school and who is not otherwise
21 covered by the definition of teacher as defined in this subsection or an employee who
22 is employed in adult education as defined in Title 20-A, section 8601-A, subsection 1
23 and who is not otherwise covered by the definition of teacher defined in this
24 subsection may not be considered a teacher for purposes of this Part;

25 C. Any employee of a public school on June 30, 1989, in a position not included in
26 paragraph A or B which was included in the definition of teacher in effect on June 30,
27 1989, as long as:

28 (1) The employee does not terminate employment; or

29 (2) The employee terminates employment and returns to employment in a
30 position in the same classification within 2 years of the date of termination.

31 Regardless of any subsequent employment history, any employee of a public school
32 in a position which was included in the definition of teacher in effect on June 30,
33 1989, is entitled to creditable service as a teacher for all service in that position on or
34 before that date;

35 D. Any employee of a public school or a school management and leadership center
36 established pursuant to Title 20-A, chapter 123 in a position not included in
37 paragraph A, B or C who was a member of the State Employee and Teacher
38 Retirement Program of the retirement system as a teacher on August 1, 1988, as long
39 as:

40 (1) The employee does not terminate employment; or

1 (2) The employee terminates employment and returns to employment in a
2 position in the same classification within 2 years of the date of termination;

3 E. Any former employee of a public school or a school management and leadership
4 center established pursuant to Title 20-A, chapter 123 in a position not included in
5 paragraph A, B or C who was a member of the State Employee and Teacher
6 Retirement Program of the retirement system as a teacher before August 1, 1988, as
7 long as the former employee returns to employment in a position in the same
8 classification before July 1, 1991; or

9 F. For service before July 1, 1989, any employee of a public school in a position
10 which was included in the definition of teacher before July 1, 1989.

11 "Teacher" includes a person who is on a one-year leave of absence from a position as a
12 teacher and is participating in the education of prospective teachers by teaching and
13 supervising students enrolled in college-level teacher preparation programs in this State.

14 "Teacher" also includes a person who is on a leave of absence from a position as a teacher
15 and is duly elected as President of the Maine Education Association.

16 "Teacher" also includes a person who, subsequent to July 1, 1981, has served as president
17 of a recognized or certified bargaining agent representing teachers for which released
18 time from teaching duties for performance of the functions of president has been
19 negotiated in a collective bargaining agreement between the collective bargaining agent
20 and the teacher's school administrative unit and for whom contributions related to the
21 portion of the person's salary attributable to the released time have been paid as part of
22 the regular payroll of the school administrative unit.

23 **Sec. 2. 20-A MRSA §3808** is enacted to read:

24 **§3808. Collective bargaining in school management and leadership centers**

25 **1. Assumption of obligations, duties, liabilities and rights.** On and after the
26 operational date of a school management and leadership center, teachers and other
27 employees whose positions are transferred from a school administrative unit to the school
28 management and leadership center and were included in a bargaining unit represented by
29 a bargaining agent, and for participating school administrative units, teachers and other
30 employees who are subsequently employed by the school management and leadership
31 center and were included in a bargaining unit and represented by a bargaining agent,
32 continue to be included in the same bargaining unit and represented by the same
33 bargaining agent pending completion of the bargaining agent and bargaining unit merger
34 procedures and bargaining for initial school management and leadership center collective
35 bargaining agreements covering school management and leadership center employees, as
36 described in this section. After teachers and other employees become employees of the
37 school management and leadership center, the school management and leadership center
38 has the obligations, duties, liabilities and rights of a public employer pursuant to Title 26,
39 chapter 9-A with respect to those teachers and other employees.

40 **2. Structure of bargaining units.** All bargaining units of school management and
41 leadership center employees must be structured on a school management and leadership
42 center-wide basis. Teachers and other employees who are employed by the school

1 management and leadership center to provide consolidated services must be removed
2 from the existing bargaining units of teachers and other employees who are employed by
3 each member school unit and merged into units of school management and leadership
4 center employees. Merger into school management and leadership center-wide
5 bargaining units is not subject to approval or disapproval of employees. Formation of
6 school management and leadership center-wide bargaining units must occur in
7 accordance with this subsection.

8 A. In each school management and leadership center, there must be one bargaining
9 unit of teachers, if any teachers are employed by the school management and
10 leadership center, and, to the extent they are on the effective date of this paragraph
11 included in bargaining units, other certified professional employees, excluding
12 principals and other administrators.

13 B. Any additional bargaining units in a school management and leadership center
14 must be structured as follows.

15 (1) In the initial establishment of such units, units must be structured primarily
16 on the basis of the existing pattern of organization, maintaining the grouping of
17 employee classifications into bargaining units that existed prior to the creation of
18 the school management and leadership center and avoiding conflicts among
19 different bargaining agents to the extent possible.

20 (2) In the event of a dispute regarding the classifications to be included within a
21 school management and leadership center-wide bargaining unit, the current
22 bargaining agent or agents or the school management and leadership center may
23 petition the Maine Labor Relations Board to determine the appropriate unit in
24 accordance with this section and Title 26, section 966.

25 C. When there is the same bargaining agent in all bargaining units that will be
26 merged into a school management and leadership center-wide bargaining unit, the
27 units must be separated and merged on the operational date or the date represented
28 employees are transferred to the school management and leadership center,
29 whichever is applicable, and the school management and leadership center shall
30 recognize the bargaining agent as the representative of the merged unit.

31 D. When all bargaining units that will be separated and merged into a school
32 management and leadership center-wide bargaining unit are represented by separate
33 local affiliates of the same state labor organization, the units must be separated and
34 merged on the operational date or the date represented employees are transferred to
35 the school management and leadership center, whichever is applicable. The identity
36 of a single affiliate that will be designated the bargaining agent for the merged unit
37 must be selected by the existing bargaining agents and the state labor organization.
38 Upon completion of the merger and designation of the bargaining agent and
39 notification by the state labor organization to the school management and leadership
40 center, the school management and leadership center shall recognize the designated
41 bargaining agent as the representative of employees in the merged unit. If necessary,
42 the parties shall then execute a written amendment to any collective bargaining
43 agreement then in effect to change the name of the bargaining agent to reflect the
44 merger.

1 E. When there are bargaining units that will be separated and merged into a school
2 management and leadership center-wide bargaining unit in which there are
3 employees who are not represented by any bargaining agent and other employees
4 who are represented either by the same bargaining agent or separate local affiliates of
5 the same state labor organization, the units must be separated and merged on the
6 operational date or the date represented employees are transferred to the school
7 management and leadership center, whichever is applicable, as long as a majority of
8 employees who compose the merged unit were represented by the bargaining agent
9 prior to the merger. The procedures for separation and merger of separate local
10 affiliates of the same state labor organization described in paragraph D must be
11 followed if applicable. If prior to the merger a bargaining agent did not represent a
12 majority of employees who compose the merged unit, a bargaining agent election
13 must be conducted by the Maine Labor Relations Board pursuant to paragraph F.

14 F. When bargaining units with different bargaining agents must be merged into a
15 single school management and leadership center-wide bargaining unit pursuant to this
16 section, the bargaining agent of the merged bargaining unit must be selected in
17 accordance with Title 26, section 967 except as modified in this section.

18 (1) A petition for an election to determine the bargaining agent must be filed
19 with the Maine Labor Relations Board by any of the current bargaining agents or
20 the school management and leadership center.

21 (2) The petition must be filed not more than 90 days prior to the first August 31st
22 occurring after either the 3rd anniversary date of the operational date of the
23 school management and leadership center or the date on which positions are
24 transferred from member school units to the school management and leadership
25 center, whichever is later.

26 (3) The election ballot may contain only the names of the bargaining agents of
27 bargaining units that will be merged into the school management and leadership
28 center-wide bargaining unit and the choice of no representative, but no other
29 choices. A showing of interest is not required from any such bargaining agent
30 other than its current status as representative.

31 (4) The obligation to bargain with existing bargaining agents continues from the
32 operational date of the school management and leadership center or the date on
33 which positions are transferred from member school units to the school
34 management and leadership center, whichever is later, until the determination of
35 the bargaining agent of the school management and leadership center-wide
36 bargaining unit under this section; but in no event may any collective bargaining
37 agreement that is executed after the operational date extend beyond the first
38 August 31st occurring after either the 3rd anniversary date of the operational date
39 of the school management and leadership center or the date on which positions
40 are transferred from member school units to the school management and
41 leadership center, whichever is later.

42 (5) The Maine Labor Relations Board shall expedite to the extent practicable all
43 petitions for determination of the bargaining agent in the school management and
44 leadership center filed pursuant to this section.

1 (6) The bargaining units must be merged into a school management and
2 leadership center-wide bargaining unit as of the date of certification of the results
3 of the election by the Maine Labor Relations Board or the expiration of the
4 collective bargaining agreements in the unit, whichever occurs later.

5 (7) Until the first August 31st occurring after either the 3rd anniversary date of
6 the operational date of the school management and leadership center or the date
7 on which positions are transferred from member school units to the school
8 management and leadership center, whichever is later, existing bargaining agents
9 shall continue to represent the bargaining units that they represented on the day
10 prior to the operational date of the school management and leadership center. If
11 necessary, each bargaining agent and the school management and leadership
12 center must negotiate interim collective bargaining agreements to expire the first
13 August 31st occurring after either the 3rd anniversary date of the operational date
14 of the school management and leadership center or the date on which positions
15 are transferred from member school units to the school management and
16 leadership center, whichever is later.

17 (8) When there are 2 or more bargaining units in which there are employees who
18 are represented either by the same bargaining agent or by separate local affiliates
19 of the same state labor organization that will be merged into a school
20 management and leadership center-wide bargaining unit with one or more other
21 bargaining units pursuant to the election procedures described in this paragraph,
22 the bargaining units that are represented either by the same bargaining agent or
23 by separate local affiliates of the same state labor organization must merge as of
24 the operational date. The procedures for merger of separate local affiliates of the
25 same state labor organization described in paragraph D must be followed if
26 applicable.

27 **3. Agent to engage in collective bargaining.** After the merger of bargaining units
28 in a school management and leadership center, the bargaining agent of a school
29 management and leadership center-wide bargaining unit and the school management and
30 leadership center shall engage in collective bargaining for a collective bargaining
31 agreement for the school management and leadership center-wide bargaining unit. In the
32 collective bargaining agreement for each school management and leadership center-wide
33 bargaining unit, the employment relations, policies, practices, salary schedules, hours and
34 working conditions throughout the school management and leadership center must be
35 made uniform and consistent as soon as practicable. In the event that the parties are
36 unable to agree upon an initial school management and leadership center-wide collective
37 bargaining agreement, the parties shall use the dispute resolution procedures pursuant to
38 Title 26, section 965 to resolve their differences.

39 **4. Application of collective bargaining agreements.** On and after the operational
40 date of a school management and leadership center, but before the completion of
41 negotiations for a single school management and leadership center-wide collective
42 bargaining agreement for the school management and leadership center-wide bargaining
43 unit, the wages, hours and working conditions of an employee of the school management
44 and leadership center who is in a bargaining unit and who is reassigned to a different
45 position that is in a different bargaining unit but that upon the completion of the merger

1 of bargaining units will be included in the same school management and leadership
2 center-wide bargaining unit must be determined by the terms of the collective bargaining
3 agreement that applies to the position to which the employee is reassigned, except as
4 provided in this subsection.

5 A. If the application of the collective bargaining agreement that applies to the
6 position to which the employee is reassigned would cause a reduction in the
7 employee's wage or salary rate, the employee's wage or salary rate must be
8 maintained at the rate the employee was paid immediately prior to the reassignment
9 until the completion of negotiations for a single school management and leadership
10 center-wide collective bargaining agreement for the school management and
11 leadership center-wide bargaining unit or the applicable collective bargaining
12 agreement requires a higher wage or salary rate for the employee, whichever occurs
13 sooner.

14 B. If the application of the existing collective bargaining agreement that applies to
15 the position to which the employee is reassigned would cause a reduction in the
16 amount that is paid by the school management and leadership center for premiums for
17 health insurance for the employee and the employee's dependents, the school
18 management and leadership center's payment must be maintained at the amount that
19 was paid immediately prior to the reassignment until the completion of negotiations
20 for a single school management and leadership center-wide collective bargaining
21 agreement for the school management and leadership center-wide bargaining unit or
22 the applicable collective bargaining agreement requires a higher payment, whichever
23 occurs sooner.

24 C. If the application of the existing collective bargaining agreement that applies to
25 the position to which the employee is reassigned provides for coverage under a
26 different health insurance plan, the employee may elect to retain coverage under the
27 health insurance plan in which the employee was enrolled immediately prior to
28 reassignment if the eligibility provisions of the plan permit until the completion of
29 negotiations for a single school management and leadership center-wide collective
30 bargaining agreement for the school management and leadership center-wide
31 bargaining unit.

32 **SUMMARY**

33 This bill provides that employees of school management and leadership centers
34 established under the Maine Revised Statutes, Title 20-A, chapter 123 are eligible to
35 participate in the Maine Public Employees Retirement System. It also establishes
36 collective bargaining obligations, duties, liabilities and rights for a school management
37 and leadership center pursuant to the laws governing municipal public employers and
38 includes provisions for the merging of bargaining units of employees of a school
39 administrative unit that also are employed by a school management and leadership center.