

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

Handwritten notes at the top of the page, including a date "2-2-1978" and other illegible scribbles.

JOSEPH E. BRENNAN
ATTORNEY GENERAL



RICHARD S. COHEN
JOHN M. R. PATERSON
DONALD G. ALEXANDER
DEPUTY ATTORNEYS GENERAL

STATE OF MAINE
DEPARTMENT OF THE ATTORNEY GENERAL
AUGUSTA, MAINE 04333

March 15, 1978

To: Tobie Nathanson, Chairman, State Board of Education,
Department of Educational and Cultural Services
From: Waldemar G. Buschmann, Assistant Attorney General
Re: State Board of Education's Authority under 26 M.R.S.A.
Chapter 12, "University of Maine Labor Relations Act."

FACTS:

In 1973 the 106th Legislature enacted P.L. 1973, c. 774, entitled the "State Employees Labor Relations Act." 26 M.R.S.A. Chapter 9-B, §§ 979 to 979-O. Pursuant to Chapter 9-B, the faculty at the VTI's and the Schools of Practical Nursing were placed in the Professional and Technical Services bargaining unit.

In 1977 the 108th Legislature enacted P.L. 1977, Chapter 581, which placed the Vocational-Technical Institute employees and state Schools for Practical Nursing employees under the coverage provided by the "University of Maine Labor Relations Act," 26 M.R.S.A. Chapter 12, §§ 1021 to 1034. Chapter 12 had been enacted by the 107th Legislature in 1975 to cover Maine Maritime Academy employees and University of Maine employees. P.L. 1975, c. 603, § 1.

26 M.R.S.A. § 979-A.5 defines the term "public employer" to include "all the departments, agencies and commissions of the executive branch of the State of Maine, represented by the Governor or his designee." It also states that it "is the responsibility of the executive branch to negotiate collective bargaining agreements and to administer such agreements" and that "The Governor's office or its designee is responsible for the employee functions of the executive branch under this chapter. . . ."

26 M.R.S.A. § 1022.1-A, .1-C and .10 states that the Board of Trustees of the Maine Maritime Academy, the State Board of Education and the Board of Trustees of the University of Maine shall

respectively be responsible "to negotiate collective bargaining agreements and to administer such agreements" and shall be "responsible for the employer functions" at the Academy, the VTI's and the University. The members of all three of these boards are appointed by the Governor subject to legislative confirmation.

26 M.R.S.A. § 1022.1-C also requires that the State Board of Education shall utilize the "Office of State Employee Relations" (OSER) for the purposes of Chapter 12. OSER is the office created by the executive branch to negotiate collective bargaining agreements required by Chapter 9-B. The only statutory reference to its existence is the reference in § 1022.1-C. Section 17 of P.L. 1977, Chapter 581, also authorizes an appropriation of \$12,000 in fiscal year 1978 and of \$17,000 in fiscal year 1979 to "the Executive Department, Office of State Employee Relations. . . to carry out the purposes of" Chapter 581.

Finally, § 1026, last paragraph requires that: "Cost items in any collective bargaining agreement of vocational-technical institutes or state schools for practical nursing employees shall be submitted for inclusion in the Governor's next operating budget within 10 days after the date on which the agreement is ratified by the parties."

QUESTION:

"What is the Board's authority and duty relating to the process of negotiating agreements with the employees identified in P.L. 1977, Chapter 581?"

ANSWER:


The State Board of Education or its designee has the responsibility "to negotiate collective bargaining agreements" with the respective bargaining unit which represents each of the following occupational groups employed at the VTI's and the School of Practical Nursing:

- "A. Faculty and instructors;
- B. Administrative staff; and
- C. Classified employees." 20 M.R.S.A. §§ 1022.1-C and 1024.1-B.

The State Board's authority in the negotiation process pursuant to the "University of Maine Labor Relations Act" is the same as the boards of trustees at the Maine Maritime Academy and at the University of Maine have under the Act. However, the 108th Legislature has mandated that the State Board utilize OSER as its agent in the negotiations while the respective boards of trustees are free to choose their agents to represent them in their negotiations.

The State Board, or its designee, has the duty to develop economic and noneconomic benefits which OSER shall refer to in negotiating a collective bargaining agreement on behalf of the State Board. Finally, the State Board, or its designee, is the authorized body to approve any collective bargaining agreement with the VTI's and the School of Practical Nursing employees the same as the executive branch approves agreements with state employees under 26 M.R.S.A. Chapter 9-B and the respective boards of trustees at the Maine Maritime Academy and at the University of Maine approve agreements with their respective employees.

However, collective bargaining agreements between the State Board and the approved bargaining units will not become final until the cost items adopted in the agreements are approved by the Legislature as part of the Governor's operating budget. 26 M.R.S.A. § 1026.



WALDEMAR G. BUSCHMANN
Assistant Attorney General

WGB/ec