

ANNUAL REPORT
MAINE LABOR RELATIONS BOARD, PANEL OF MEDIATORS, and
STATE BOARD OF ARBITRATION AND CONCILIATION
Fiscal Year 2019

I. Introduction

The purpose of this report is to review for Governor Janet T. Mills the operations of the Maine Labor Relations Board (Board or MLRB) and its affiliated organizations, the Panel of Mediators (Panel) and the State Board of Arbitration and Conciliation (BAC) in Fiscal Year 2019.¹ To that end, this report contains: (1) background information on MLRB operations including the statutory foundation for public-sector collective bargaining in Maine, as well as a brief examination of the respective missions and composition of the Board, Panel, and BAC, (2) a review of the Board, Panel, and BAC's operations for FY 2019, (3) a summary of MLRB-related legislation enacted by the 129th Legislature, and (4) a short discussion of MLRB operational goals and related plans.

II. Background

a. Statutory Framework for Public-Sector Collective Bargaining in Maine

Public-sector employees in Maine have the right to engage in collective bargaining, as provided by four separate laws that govern labor relations in the State. Those laws are:

- The Municipal Public Employees Labor Relations Law (covering municipal and county employees including clerical, schools, fire, police, and public works employees), 26 M.R.S.A. §961, *et seq.*;
- The State Employees Labor Relations Act (covering state employees, including the legislative and executive branches), 26 M.R.S.A. §979, *et seq.*;
- The University Employees Labor Relations Act (covering employees of the University of Maine and Maine Community College systems, as well as Maine Maritime Academy), 26 M.R.S.A. §1021, *et seq.*;
- The Judicial Employees Labor Relations Act (covering the State's judicial branch employees), 26 M.R.S.A. §1281, *et seq.*

In all, approximately 61,000 individuals, employed by nearly 500 public-sector employers, fall within the jurisdiction of these laws.

¹ 26 M.R.S.A. §§931, 965(2)(C), 968(7) and 979-J(1) respectively require the submission of an annual report regarding Board, Panel, and BAC operations to the Governor.

The State's labor relations laws share a common foundation that establishes the framework for collective bargaining in Maine. The stated purpose of each law is to improve the relationship between public employers and their employees. Employees may choose to engage in collective bargaining by selecting a bargaining agent, i.e. union, to represent a group of the employees, called a bargaining unit, who share common working conditions.

Once a bargaining agent is certified, the employer and bargaining agent must bargain in good faith over wages, hours, and conditions of employment for the bargaining unit. If the parties are unable to reach agreement on their own, they may participate in mediation, fact-finding and arbitration to resolve the bargaining impasse. Should one party fail to meet its statutory obligations, the other party may seek enforcement of the law by filing a complaint with the Board for which the Board will conduct a hearing and render a decision and order. The Board's decisions are subject to appeal to the Maine courts.

b. Mission

The Board's primary mission is to enforce the rights and obligations provided in the State's labor relations laws. To do so, the Board and its affiliated organizations perform three central functions: (1) the certification of bargaining units, typically through an election where employees vote on whether to be represented by a union, (2) the resolution of collective bargaining impasses, and (3) the adjudication of complaints that allege violations of the labor relations laws.

The Board, Panel, and BAC have separate, but related, responsibilities and jurisdiction. The Board itself is responsible for resolving disputes over the composition of bargaining units, conducting and certifying elections for bargaining agents, conducting hearings for prohibited practice complaints, and, issuing decisions and orders for those complaints.

The Panel's central purpose is to facilitate resolutions to bargaining impasses involving public-sector employers and their counter-part bargaining agents. Specifically, if an employer and a union are unable to reach agreement in their negotiations, they can request that a mediator from the Panel be assigned to help them achieve a resolution to their bargaining dispute.

The BAC is available to resolve bargaining impasses in the event that mediation and fact-finding are unsuccessful. Most frequently, the BAC provides arbitration services for contract grievances.

c. Composition

Board

The Board is composed of three members and six alternates appointed by the Governor to four-year terms, subject to legislative approval. Out of the three members, one is designated to represent the public (Public Representative), another to represent employees (Employee Representative), and the third to represent employers (Employer Representative). The Public Representative is also designated to serve as the Board's Chair. Each member has two alternates in the event the member is unavailable for a Board hearing.

The Board is currently composed as follows:

Public Representative/Chairs	(appointments expire 9/30/19)
Katharine I. Rand, Esq., Scarborough	Board Chair
Jeffrey J. Knuckles, Esq., Phippsburg	Alternate Chair
Michael C. Ryan, Esq., Freeport	Alternate Chair
Employer Representatives	(appointments expired 9/30/18)
Robert W. Bower, Jr., Esq. Cumberland	Employer Representative
Christine Riendeau, Durham	Alternate Employer Rep.
Richard L. Hornbeck, Esq., Bowdoinham	Alternate Employer Rep.
Employee Representatives	(appointments expire 9/30/21)
Amie M. Parker, Lewiston	Employee Representative
Dennis E. Welch, Windham	Alternate Employee Rep.
Carl A. Guignard, Lewiston	Alternate Employee Rep.

Panel of Mediators

The Panel is composed of five to ten individuals appointed by the Governor to three year terms. 26 M.R.S.A. §965(2)(C). The Panel is currently composed as follows:

	<u>Appointment Expired</u>
David W. Bustin, Hallowell	08/19/14
Maria Fox, Esq. Portland	11/10/14
Denis Jean, Lewiston	12/08/18
Arthur Kyricos, York Harbor	12/08/18
Robert Lyman, Freeport	11/10/14
Philip J. Moss, South Portland	12/08/18
Melissa P. Shattuck, Falmouth	02/02/15
Evan L. Weston, Harpswell	12/08/18
Kenneth T. Winters, Holden	07/18/17

In accordance with 26 M.R.S.A. §965(2)(C), the Board has submitted to the Governor several nominees for Panel appointment. Six nominees are current members of the Panel, including:

Maria Fox, Esq. Portland
Denis Jean, Lewiston
Arthur Kyricos, York Harbor
Robert Lyman, Freeport
Melissa Shattuck, Falmouth
Evan Weston, Harpswell

Three nominees are not current Panel members and include:

Jane Gilbert, Augusta
Erik Peters, Esq. Freeport
Rebekah Smith, Esq. Union

As of the date of this report, the Panel nominations remain pending with the Governor's Office Department of Boards and Commissions.

Board of Arbitration and Conciliation

The BAC is also composed of gubernatorial appointees, respectively designated as public chairs, employer representatives, and employee representatives. 26 M.R.S.A. §931. Their terms of appointment are three years. *Id.* The BAC is currently composed as follows:

Neutral Chairs		<u>Appointment Expire(d)s</u>
Shari B. Broder, Esq. Freeport	Board Chair	08/25/14
Sheila Mayberry, Esq., Falmouth	Alternate Chair	12/26/20
John C. Sheldon, Esq., Westbrook	Alternate Chair	12/26/20
Employer Representatives		
Robert W. Bower, Jr., Esq. Cumberland	Employer Rep.	12/26/20
Donald H. Gerrish, Brunswick	Alt. Employer Rep.	02/07/15
Bryan M. Dench, Esq., Portland	Alt. Employer Rep.	12/26/20
Employee Representatives		
Chester G. Hillier, Monmouth	Employee Rep.	12/26/20
James H. Mackie, South Portland	Alt. Employee Rep.	12/26/20
Vacant	Alt. Employee Rep.	

Neutral Staff

Apart from the Governor-appointed positions, the day-to-day operations of the Board, Panel, and BAC are handled by a neutral, non-appointed legal and administrative staff composed of the Executive Director, Board Counsel, Hearings Reporter, and Office Manager. The Board's Executive Director also serves in that same capacity for the Panel, in addition to serving as Clerk to the BAC.

On a regular basis, the Board's staff members respond to inquiries from public employers and employees or their representatives, and members of the public. The staff is the primary source of information for persons interested in the operations and procedures of Maine's public sector labor laws. For inquiries that involve matters over which the Board has no jurisdiction, the staff suggests other agencies or organizations that may be of assistance.

The Board's staff maintains a State of Maine website on behalf of the Board, Panel and BAC. See <https://www.maine.gov/mlrb/>. The website provides a variety of Board-related information including links to MLRB-related statutes, administrative rules and forms. One of the site's more important components is a search engine through which the public can research previous Board decisions as well as the Superior and Law Court opinions reviewing those decisions. Access to this case law permits public employers, employees and bargaining agents to know the parameters of required or permitted conduct and to use that information to comply with the law.

III. Board Operations for FY 2019

a. Bargaining Unit and Election Matters

As noted above, the Board is responsible for certifying a labor organization as the designated bargaining agent of a bargaining unit, i.e. a group of employees who share common working conditions. Currently, in order to obtain certification, a labor organization files a petition with the Board requesting a determination of an appropriate bargaining unit and an election, along with an accompanying showing of interest from at least 30% of the proposed bargaining unit. In the event that the parties dispute what employees are included in the bargaining unit, the Board's Executive Director determines the scope of the bargaining unit, subject to appeal to the Board.

Once the bargaining unit is finalized, the Board conducts an election, typically by mail ballot. Through the election, each bargaining unit employee is permitted to vote by secret ballot as to whether they wish to be represented by a particular labor organization for the purposes of collective bargaining. On average, a mail ballot election is completed in about six weeks from the time that the petition is filed until the certification of results. Looking forward, with the recent enactment of L.D. 757, described below in Section VI (Legislative Matters) of this report, if a petitioning union presents a valid showing of interest from the majority of an unrepresented bargaining unit, the union will be certified as the bargaining agent without an election.

During FY 2019, the Board addressed a number of bargaining unit representation matters. Foremost, a total of 13 petitions were filed requesting an election to determine a new bargaining agent for a bargaining unit.² Of those petitions, 5 involved a bargaining unit that was not represented by any labor organization at the time of filing. Another 8 of the petitions involved one labor organization seeking to represent a bargaining unit represented by a different labor organization.

Through the course of FY 2019, the Board conducted 16 elections to determine a new bargaining agent.³ In the cases involving an unrepresented bargaining unit, 7 out of 8 resulted in the certification of a labor organization as the designated bargaining agent. In the cases involving one labor organization seeking to represent a bargaining unit already represented by another labor organization, the challenger/petitioner prevailed in 6 out of 7 elections.

In addition to those petitions requesting an election to determine a bargaining agent, the Board received a total of 4 voluntary recognitions of a designated bargaining agent. In these cases, the employer voluntarily recognized a labor organization as the bargaining agent of a bargaining unit without the need for an election.

Apart from elections or voluntary recognitions to determine a new bargaining agent, the Board received 2 petitions seeking to decertify an incumbent bargaining agent in favor of having no designated bargaining agent to collectively negotiate on behalf of the bargaining unit. The Board conducted a total of 2 elections for these petitions, both of which resulted in the decertification of the incumbent bargaining agent.

² For the five year period running from FY 2014 through FY 2018, the average number of election petitions filed annually with the Board was slightly under 15.

³ Of the 16 elections, 4 involved holdover petitions from FY 18 and one of the elections was a runoff election, conducted when there are three ballot options and none of the three obtains a majority of votes in the initial election.

b. Prohibited Practice Complaints

The Board is responsible for adjudicating prohibited practice complaints alleging a violation of the state's public sector labor relations laws. Once a complaint is filed, the Executive Director conducts an initial review of the complaint to determine if it alleges a violation of the law. If the original complaint fails to allege a violation of the law, the charging party is permitted the opportunity to amend the complaint once. Ultimately, if a complaint's alleged facts do not state an actionable claim, the complaint is dismissed subject to appeal to the Board.

If a complaint does allege a violation of the law, the Executive Director engages the parties in settlement discussions. Should the settlement discussions be unsuccessful, a hearing is conducted by the full, tri-partite Board. Thereafter the Board issues a written decision and order which is subject to appeal to the courts.

In FY 2019, a total of 8 prohibited practice complaints were filed.⁴ Subject matter at issue included alleged failures to negotiate in good faith, retaliation for engaging in protected activity, and denial of an employee's request to consult with a union representative during a workplace investigation. In addition to the 8 complaints filed in FY 2019, a total of 3 prohibited practice complaints were held over from FY 2017 and 11 cases were held over from FY 2018. As a result, a total of 22 complaints were pending with the Board at some point during FY 2019.

Through the course of FY 2019, a total of 14 of the pending complaints were resolved without the need for a hearing.⁵ Additionally, during this year, the Executive Director dismissed two complaints that failed to state an actionable claim. Finally, the Board conducted one formal hearing in FY 2019 for a consolidated case composed of two related PPC complaints. As a result, 18 of the 22 prohibited practice complaints pending during FY 2019 were resolved or dismissed, or went to hearing.

During FY 2019, the Board issued one decision and order, for *Jeffrey L. Macomber v. Maine State Employees Ass'n, SEIU, Local 1989*, MLRB Case No. 18-20 (September 28, 2018). The Board upheld the Executive Director's dismissal of a prohibited practice complaint for a failure to state a claim upon which the Board could grant relief. The complaint in question alleged a union violated its duty of fair representation when it failed to correct a procedural defect during the processing of a grievance. The Board held that even if the union previously made a near-identical mistake for a separate grievance, as the complainant asserted, the complainant failed to allege any facts from which one could conclude that the subsequent error was anything but mere negligence, therefore failing to establish arbitrary conduct that would constitute a violation of the duty of fair representation under Law Court and Board precedent.

As previously indicated, Board decisions and orders are subject to appeal in the courts. In FY 2019, there were several court-related actions. Foremost, the Law Court issued a decision for a Board decision that was appealed to Superior Court in FY 2017. See *David Trask v. Fraternal Order of Police*, 2018 ME 130. The Law Court upheld the Board's determination in MLRB. No. 16-07 (also previously affirmed by the Superior Court in AP-2017-29) that a union did not

⁴ For the five year period running from FY 2014 through FY 2018, the average number of prohibited practice complaints filed annually with the Board was 24.

⁵ The 14 resolved complaints included all three holdovers from FY 2017, seven FY 18 holdovers, and four FY 19 complaints.

violate its duty of fair representation to a unit employee in connection to the union's negotiations with the town over the town's decision to close its municipal police department.

At the Superior Court level, the charging party in *Macomber v. Maine State Employees Ass'n*, MLRB No. 18-20, filed an appeal of the Board's decision in Superior Court. That appeal remains pending. Apart from that case, two appeals filed in FY 2018 were withdrawn this year.

IV. Panel and Impasse Resolution Operations for FY 2019

A critical aspect of MLRB operations is to provide negotiation impasse resolution services to Maine's public-sector employers and labor organizations. Often, for a variety of reasons, parties are unable to reach agreement when negotiating either an initial or successor collective bargaining agreement. When such a bargaining impasse occurs, Maine's labor relations laws provide a three-step process to resolve the impasse.

First, parties may request the assignment of a neutral Panel mediator. The Board's Executive Director is responsible for assigning a Panel mediator. After assignment, the mediator meets with the parties and facilitates the discussion and resolution of subjects in dispute. Given the overall frequency of Panel mediation requests, this service represents an area where the MLRB and Panel have the regular opportunity to provide direct assistance to numerous public-sector parties, with the goal of improving those labor-management relationships at the local level as well as promoting stability in labor relations state-wide.

If the parties are unable to reach ultimate agreement through mediation, either party may request a fact-finding panel, composed of a neutral chair, employer representative, and employee representative. Parties can either request a private fact-finding panel or a BAC fact-finding panel. Upon receipt of a request, the Board's staff assigns the fact-finding panel and coordinates the logistics for the fact-finding hearing. At hearing, each party presents evidence in support of its respective proposals, after which the fact finders issue a decision which provides the panel's advisory determination for all subjects in dispute. Additionally, at times, the assigned fact-finding panel is able to conciliate a resolution during the hearing process.

Finally, if the parties remain in dispute following fact-finding, they may submit the outstanding issues to interest arbitration. Parties may obtain interest arbitration from either private arbitrators or members of the BAC. By law, the resulting arbitration decision is binding on the parties with the exception of any decision that addresses wages, retirement or insurance, in which case the decision is advisory only. The Act does not require parties to notify the Board if they invoke interest arbitration. The Board is not aware of any interest arbitration requests in FY 2019.

a. Mediations in FY 2019

In FY 2019, parties filed with MLRB a total of 40 requests for Panel mediation.⁶ These requests typically involved parties at the municipal or county level. Additionally, 37 mediations were held over from previous fiscal years. Throughout FY 2019, Panel mediators worked on a total of 47 of the separate, pending contract disputes that comprised each mediation request.

⁶ For the five year period running from FY 2014 through FY 2018, the average number of mediation requests filed annually with the Board was 55.

Of the 77 matters pending in FY 19, a total of 61 were closed during the year. Of the 61 closed, the Panel's mediators facilitated a resolution in 44 of the matters either through the parties reaching agreement during mediation itself, or shortly thereafter.

b. Fact-Finding in FY 2019

In FY 2019, parties filed a total of 16 requests for a private fact-finding panel.⁷ These requests typically involved parties at the municipal or county level. Additionally, 9 requests were held over from FY 18 resulting in a total of 25 requests pending at some time in FY 19.

Through FY 2019, a total of 18 of the 25 pending fact-finding requests were closed. Of those closed, 7 went forward to a fact-finding hearing while 11 were withdrawn or resolved without a hearing. For the 7 requests that went forward to a hearing, 1 was resolved at hearing. Of the six that went unresolved at hearing, fact-finding panels issued a total of 4 written decisions this year, while 2 written decisions remain pending.

V. BAC Operations for FY 2019

The BAC is available to provide the labor relations community with three services: (1) fact-finding for unresolved bargaining disputes, (2) interest arbitration in the event that mediation and fact-finding are unsuccessful to resolve a bargaining impasse, and (3) arbitration for grievances alleging a breach of a collective bargaining agreement.

In practice, for a number of years, the vast majority of the BAC's activity is related to providing arbitration services for contract grievances. In order for parties to obtain BAC arbitration services, the parties must jointly request the service and/or the parties' collective bargaining agreement permits a contract grievance to be submitted to the BAC for arbitration.

In FY 2019, there were a total of 28 requests for BAC services.⁸ Of the 28 requests filed this year, 26 involved requests for contract grievance arbitration while 2 requested fact-finding for a bargaining impasse. In addition, 10 requests for BAC services were carried over from pre-FY 19.

Throughout this year, the BAC issued a total of 3 grievance arbitration decisions. Additionally, the BAC facilitated the parties' settlement of 2 cases without the need to issue a decision. A total of 12 cases were withdrawn without a decision or settlement.

With regard to fact-finding, the BAC received a total of 2 requests for its fact-finding services, both of which remain pending at this time.

In terms of interest arbitration, there are typically few requests for the BAC to provide interest arbitration services in any given year. In FY 2019, the BAC did not receive any joint requests for interest arbitration.

⁷ For the five year period running from FY 2014 through FY 2018, the average number of fact-finding requests filed annually with the Board was 13.

⁸ For the five year period running from FY 2014 through FY 2018, the average annual number of requests for BAC services was 22.

VI. Legislative Matters

The 129th Legislature enacted a number of MLRB-related bills during its first session, including:

- L.D. 317: “An Act to Amend the Laws Governing Appointees to the Maine Labor Relations Board,” signed by the Governor on May 30, 2019, enacted as Chapter 184 of P.L. 2019.

This law amended the eligibility for gubernatorial appointment to the Board. Under the Municipal Public Employees Labor Relations Law (the Act), the Governor holds the authority to appoint the Board’s members subject to confirmation by the Legislature. 26 M.R.S.A. §968(1). L.D. 317 provides certain qualifications for appointment to serve as either the Board’s Public Representative or Employee Representative. In particular:

“The member and alternates representing employees may not have worked in a management capacity or represented employer interests in any proceedings at any time during the prior 6 years. The member and alternates representing the public may not have worked in a management capacity or represented employer interests in any proceedings or have worked for a labor organization or served in a leadership role in a labor organization at any time during the prior 6 years.”

- L.D. 757: “An Act to Improve Labor Laws for Maine Workers,” enacted on May 21, 2019, as Chapter 135 of P.L. 2019.

Under the Act, the Board is responsible for certifying a labor organization as the designated bargaining agent of a group of employees, known as a bargaining unit. Historically, a certification was accomplished either by voluntary agreement of the employer to recognize the bargaining agent, or by a secret ballot election through which each bargaining unit employee is permitted to vote whether they wished to be represented for the purposes of collective bargaining. An election is not conducted unless a labor organization presents written evidence, known as a showing of interest, from at least 30% of the employees in the proposed bargaining unit indicating their desire to be represented by that labor organization in collective bargaining.

L.D. 757 amends the Act to provide that where a bargaining unit is currently unrepresented, the Board will certify a labor organization as the designated bargaining agent, without an election, if the Board’s Executive Director determines that a majority of the employees in the proposed bargaining unit have signed a valid showing of interest for that labor organization to represent them in collective bargaining.

- L.D. 1237: “An Act to Simplify Municipal Collective Bargaining by Removing the 120-Day Notice Required Prior to Certain Negotiations,” signed by the Governor on June 7, 2019, enacted as Chapter 240 of P.L. 2019.

Currently, the Act requires unions to provide municipal employers with advance, written notice of the union’s request to negotiate a matter that requires the appropriation of money. 26 M.R.S.A. §965(1). The notice must be provided at least 120 days before the conclusion of the employer’s current fiscal operating budget. *Id.* The obligation for a union to provide advance notice applies to both requests for negotiations of term collective bargaining agreements as well as negotiations

over the impact of employer-initiated changes to working conditions. See *SAD 3 Education Ass'n v. RSU 3 Board of Directors, et al.*, 2018 ME 29, 180 A.3d 125.

L.D. 1237 amends the Act by removing, in its entirety, the statutory obligation for a union to provide an employer with advance notice of the union's request to negotiate a matter requiring the appropriation of money.

- L.D. 1412: "An Act To Amend the Laws Governing the Collective Bargaining Rights of Employees of School Management and Leadership Centers," signed by the Governor on June 21 2019, enacted as Chapter 460 of P.L. 2019.

L.D. 1412 amends the law that permits the establishment of School Management and Leadership Centers by providing a defined process to determine what labor organization, if any, represents a newly created bargaining unit following the creation of a School Management and Leadership Center. L.D. 1412's provisions are comparable in scope to those used for Regional School Units, as provided in 20-A M.R.S.A. § 1464.

- L.D. 1451: "An Act Providing Labor Unions with Reasonable Access to Current and Newly Hired Public Sector Workers," signed by the Governor on June 19 2019, enacted as Chapter 389 of P.L. 2019.

L.D. 1451 amends each of the State's labor relations laws to provide certified bargaining agents with certain access to their bargaining unit employees and the employer's premises, as well as particular information concerning the bargaining unit employees.

Specifically, under the new law, a bargaining agent has the right to:

- Meet with employees on the employer's premises to investigate and discuss grievances, workplace-related complaints and workplace issues;
- Conduct meetings with bargaining unit employees on the employer's premises during non-work times to discuss workplace and collective bargaining issues;
- Meet with newly-hired employees for 30 minutes (or amount agreed to by the bargaining agent and employer);
- Use the employer's email system to communicate with bargaining unit employees so long as such usage does not create an unreasonable burden for the employer.

Additionally, L.D. 1451 requires public-sector employers to provide bargaining agents with certain information about newly-hired employees including: name, job title, workplace location, home address, work and home/cell phone numbers, work and personal email addresses, and date of hire. Further, L.D. 1451 provides that information such as the home address and personal contact information for bargaining unit employees, as well as communication between a bargaining agent and its members, is considered confidential, as defined in the Freedom of Access Act, and may not be disclosed by the public employer, except as provided by this law.

Finally, L.D. 1451 provides bargaining agents the right to use government-owned/leased buildings for the purpose of meeting with bargaining unit employees regarding collective bargaining negotiations, the administration of a collective bargaining agreement, the investigation of grievances, and the discussion of other workplace-related or internal union matters. A bargaining

agent does not have the right to use a building to the extent that such usage interferes with governmental operations, and a public employer may charge a bargaining agent for related maintenance and security costs.

- L.D. 1546: “An Act To Protect State Employees When Their Contracts Have Expired,” signed by the Governor on June 19, 2019, enacted as Chapter 393 of P.L. 2019.

Upon the expiration of a collective bargaining agreement, and during the negotiation of a successor contract, the statutory duty to bargain in good faith requires an employer to maintain the status quo with regard to the contract’s provisions during the pendency of the negotiations. *City of Augusta v. Maine Labor Relations Board, et al. (City of Augusta)*, 2013 ME 63, ¶¶ 15-16, 70 A.3d 268. In 1995, the Law Court determined that the duty to maintain the status quo meant that an employer was obligated to continue the “*static* status quo” as compared to a “*dynamic* status quo.” *Id.* at ¶ 17 citing *Trustees of the Univ. of Me. Sys. v. Assoc’d COLT Staff of the Univ. of Me. Sys. (COLT)*, 659 A.2d 842, 845-46 (Me. 1995) (emphasis supplied).

Prior to the enactment of LD 1546, an employer was not required under the static status quo to pay contract-based salary step increases following the expiration of a collective bargaining agreement. *City of Augusta* at ¶ 17 citing *COLT* at 845-46. L.D. 1546 amends the State Employees Labor Relations Act by requiring state employers to pay contractual salary step increases in accordance with the terms of an expired contract.

VII. Goals and Plans

Looking ahead, the Board aims to provide parties with more convenient access to MLRB services. In this regard, the Board anticipates taking several steps in FY 2020 to effectuate this goal. First, the Board is developing a process to provide its parties the opportunity to file complaints, petitions, and related documents electronically (as compared to the current system which limits service to in-person, mail, or commercial delivery). Given the extensive use of e-filing in other administrative agencies and courts, as well as the ubiquitous nature of electronic communication in today’s workplace, it is anticipated that an MLRB e-filing option will ultimately provide parties a more efficient way to file and serve MLRB-related documents, in addition to reducing the potential for dispute over dates of filing and proof of service.

Second, the Board is in the process of revising and updating its procedural rules. Along with providing rules to accompany the implementation of any e-filing process, the Board’s rules will also be revised to supplement the statutory procedure recently enacted through L.D. 757 by which, under certain circumstances, a union may be certified as the exclusive bargaining agent without an election.

Prior to implementing any changes to its procedural rules, the Board will conduct a meeting open to the public at which parties will be able to provide input on any proposed rule changes. The Administrative Procedures Act requires that notice of this meeting be published in several Maine newspapers. Importantly, the Board may need to request additional funds through a supplemental budget request in order to pay for this notice publication.


VIII. Conclusion

The Board, Panel, and BAC continue to play a critical role in facilitating stability in Maine's public-sector labor relations. In FY 2019, the MLRB's components successfully addressed numerous elections, bargaining impasses, and prohibited practice complaints. Significantly, the vast majority of disputes submitted to the Board and its affiliates, whether involving allegations of a party's failure to meet its statutory obligations or the parties' inability to reach agreement on a contract, were resolved, thus helping all involved avoid the financial and administrative costs associated with further protracted argument and litigation. Additionally, the Board continued to process bargaining unit elections in a timely manner ensuring that questions of a bargaining agent's status were quickly addressed so that the parties could move forward in meeting their respective obligations under the State's labor relations laws. The Board, Panel, and BAC look forward to continuing to provide the State's labor-management parties effective service in the coming year.

Please let me know if there is any additional information regarding Board, Panel, or BAC operations that I can provide.

Dated at Augusta, Maine, this 27th day of June, 2019

Respectfully submitted,



Neil P. Daly
Executive Director
Maine Labor Relations Board