

CHAPTER 123

EDUCATION SERVICE CENTERS

§3801. General provisions

1. Definitions. As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

A. "Municipality" means a city, town or organized plantation. [PL 2017, c. 284, Pt. VVVVV, §6 (NEW).]

B. "Education service center" means a multiservice agency established and operated exclusively for the purposes of developing, managing and providing services or programs to 2 or more members pursuant to section 3802, subsection 2 and may include associate members pursuant to section 3802, subsection 3. An "education service center" is a political subdivision pursuant to section 3802, subsection 7. [PL 2019, c. 219, §2 (AMD).]

[PL 2019, c. 219, §2 (AMD).]

2. Establishment. A school administrative unit as described in section 3802, subsection 2 may become a member of an education service center through an interlocal agreement pursuant to Title 30-A, chapter 115 and the agreement may include associate members as described in section 3802, subsection 3.

[PL 2019, c. 219, §2 (AMD).]

3. Interlocal agreement. An interlocal agreement establishing an education service center must include the structure and governance of the education service center and its functions, programs and services.

A. An interlocal agreement must include the specifications required pursuant to Title 30-A, section 2203, subsection 2 and a description of:

- (1) The education service center board composition, election or appointment of officers, board member terms and method of voting;
- (2) An approval process for a new school administrative unit to join the education service center;
- (3) An approval process for an existing member to transfer to another education service center;
- (4) The process for determining the sharing of costs for and the assessments of or payments to the education service center;
- (5) The budget process that requires an education service center budget be adopted by a date established in order to meet local school administrative unit budget deadlines. The budget process must include a contingency plan for a budget failure and must be in the cost center summary budget format pursuant to section 1485;
- (6) The process for a balanced budget as required by section 3802, subsection 10 and the method of determining the return of any excess funds to the members of the education service center; and
- (7) The process for the disposition of indebtedness and property including by sale or lease, transferred to or from or administered by the education service center. [PL 2019, c. 219, §2 (AMD).]

B. An interlocal agreement may include but is not limited to a description of the following:

- (1) The approval process for the formation of an education service center;
- (2) Any associate members, the process for including associate members and their roles in the education service center;
- (3) The process to authorize the education service center to borrow funds for school construction purposes including bonds and notes;
- (4) The process to approve the purchase or lease of buildings or land by the education service center;
- (5) The process by which an education service center may establish, maintain and expend funds from a reserve fund or contingency fund;
- (6) The process of hiring an executive director or contracting services for leadership for the education service center; and
- (7) A transition plan to move authorized programs and services from a member to the education service center. [PL 2019, c. 219, §2 (AMD).]

An interlocal agreement cannot transfer a school administrative unit's responsibility for providing the opportunity of a free public education to each of its students or a free, appropriate education to each of its students with a disability as required by this Title or by federal law.

[PL 2019, c. 219, §2 (AMD).]

4. Duties of education service center. An education service center's functions, programs and services may include but are not limited to the following:

- A. Accounting, payroll and financial management services and procurement; [PL 2017, c. 284, Pt. VVVVV, §6 (NEW).]
- B. Transportation, transportation routing and vehicle maintenance; [PL 2017, c. 284, Pt. VVVVV, §6 (NEW).]
- C. Reporting functions; [PL 2017, c. 284, Pt. VVVVV, §6 (NEW).]
- D. Special education programs and administration; [PL 2017, c. 284, Pt. VVVVV, §6 (NEW).]
- E. Gifted and talented programs and administration; [PL 2017, c. 284, Pt. VVVVV, §6 (NEW).]
- F. Alternative education programs and administration; [PL 2017, c. 284, Pt. VVVVV, §6 (NEW).]
- G. Substitute teachers and staff augmentation; [PL 2017, c. 284, Pt. VVVVV, §6 (NEW).]
- H. Technology and technology support; [PL 2017, c. 284, Pt. VVVVV, §6 (NEW).]
- I. Food service planning and purchasing; [PL 2017, c. 284, Pt. VVVVV, §6 (NEW).]
- J. Energy management and facilities maintenance; [PL 2017, c. 284, Pt. VVVVV, §6 (NEW).]
- K. [PL 2019, c. 70, §3 (RP).]
- L. Staff training and professional development; [PL 2017, c. 284, Pt. VVVVV, §6 (NEW).]
- M. Shared educational programs or staff; [PL 2017, c. 284, Pt. VVVVV, §6 (NEW).]
- N. Shared support service programs; [PL 2017, c. 284, Pt. VVVVV, §6 (NEW).]
- O. Educational programs such as summer school, extended school year, tutoring, advanced placement and other programs that serve students and improve student achievement; [PL 2017, c. 284, Pt. VVVVV, §6 (NEW).]
- P. Shared extracurricular or cocurricular programs; and [PL 2017, c. 284, Pt. VVVVV, §6 (NEW).]

Q. Superintendent services. [PL 2017, c. 284, Pt. VVVVV, §6 (NEW).]
[PL 2019, c. 219, §2 (AMD).]

SECTION HISTORY

PL 2017, c. 284, Pt. VVVVV, §6 (NEW). PL 2019, c. 70, §3 (AMD). PL 2019, c. 219, §2 (AMD).

§3802. Education service center authorized

An education service center shall provide administrative and education functions in accordance with this chapter and shall function as an extension of the member school administrative units and associate members of the education service center. A member school administrative unit of the education service center cannot transfer the responsibility for providing the opportunity of a free public education to each of its students or a free, appropriate education to each of its students with a disability as required by this Title or by federal law. [PL 2019, c. 219, §3 (AMD).]

1. Geographic boundaries. The commissioner shall determine geographic areas for the establishment of each education service center. Membership in a particular education service center does not require the member to be physically located in the education service center's geographic boundary.

[PL 2019, c. 219, §3 (AMD).]

2. Members. Members in an education service center must be determined by interlocal agreement pursuant to Title 30-A, chapter 115 and may include the following types of school administrative units:

- A. Community school districts pursuant to chapter 105; [PL 2017, c. 284, Pt. VVVVV, §6 (NEW).]
- B. Municipal school units pursuant to chapter 111; [PL 2017, c. 284, Pt. VVVVV, §6 (NEW).]
- C. Regional school units pursuant to chapter 103-A; [PL 2017, c. 284, Pt. VVVVV, §6 (NEW).]
- D. School administrative districts pursuant to chapter 103; [PL 2019, c. 219, §3 (AMD).]
- E. Schools established on tribal lands pursuant to Title 30, chapter 601; and [PL 2019, c. 219, §3 (AMD).]

F. Public charter schools as defined in chapter 112. [PL 2019, c. 219, §3 (NEW).]
[PL 2019, c. 219, §3 (AMD).]

3. Associate members. Associate members for an education service center may include the following through a contractual agreement or memorandum of understanding with the members of the education service center:

- A. Career and technical education regions pursuant to chapter 313, subchapter 4; [PL 2017, c. 284, Pt. VVVVV, §6 (NEW).]
- B. [PL 2019, c. 219, §3 (RP).]
- C. Providers of child development services pursuant to chapter 303; [PL 2017, c. 284, Pt. VVVVV, §6 (NEW).]
- D. Magnet schools pursuant to chapters 312 and 312-A; [PL 2017, c. 284, Pt. VVVVV, §6 (NEW).]
- E. The Maine Educational Center for the Deaf and Hard of Hearing and the Governor Baxter School for the Deaf pursuant to chapter 304; [PL 2017, c. 284, Pt. VVVVV, §6 (NEW).]
- F. Providers of education in the unorganized territory pursuant to chapter 119; or [PL 2017, c. 284, Pt. VVVVV, §6 (NEW).]
- G. Municipalities and counties pursuant to Title 30-A. [PL 2017, c. 284, Pt. VVVVV, §6 (NEW).]

[PL 2019, c. 219, §3 (AMD).]

4. Provision of services to or from other public entities or nonprofit entities. An education service center may provide services to or purchase services from other types of political subdivisions, public entities or nonprofit organizations or associations.

[PL 2019, c. 219, §3 (AMD).]

5. Purchase of services from another education service center. A member of an education service center may purchase services from another education service center if not provided by the member's education service center.

[PL 2019, c. 219, §3 (AMD).]

6. Validation. An education service center authorized and organized under this chapter is validated, confirmed, approved and declared legal in all respects, notwithstanding any defect or irregularity that may have occurred in the organization of the education service center or in the selection of the board of that education service center.

[PL 2019, c. 219, §3 (AMD).]

7. Political subdivision. An education service center is a political subdivision within the meaning of Title 5, section 19002, subsection 6 and a quasi-municipal corporation within the meaning of Title 30-A, section 5701, and all the provisions of those sections apply to it. Notwithstanding Title 30-A, section 2203, subsection 8, paragraph B, the members of an education service center may delegate eminent domain power to the education service center by agreement. An education service center is considered a tax-exempt governmental entity for the purposes of Title 36, section 1760, subsection 2.

[PL 2019, c. 219, §3 (AMD).]

8. Executive director; leadership services. An education service center shall employ an executive director or contract for leadership services, and the interlocal agreement under section 3801, subsection 3 must specify that the executive director or the provider of leadership services shall administer, in compliance with this chapter, the provisions of the interlocal agreement in the education service center.

[PL 2019, c. 219, §3 (AMD).]

9. Personnel. The executive director or the provider of leadership services of an education service center may employ a chief financial officer and may employ additional staff necessary or hire a fiscal agent to administer the functions assigned to the education service center through the provisions of the interlocal agreement under section 3801, subsection 3.

[PL 2019, c. 219, §3 (AMD).]

10. Balanced budget. An education service center must have a balanced budget and return excess funds to the members as prescribed by the interlocal agreement under section 3801, subsection 3.

[PL 2019, c. 219, §3 (AMD).]

11. Authority to borrow, expend and accept funds. An education service center may:

A. Borrow funds in anticipation of a member's payment of its share of the education service center budget; [PL 2019, c. 219, §3 (AMD).]

B. Expend available funds to pay debt service, security and maintenance costs; and [PL 2017, c. 284, Pt. VVVVV, §6 (NEW).]

C. Accept and expend funds from state, federal and other sources and expend those funds on behalf of the members. [PL 2017, c. 284, Pt. VVVVV, §6 (NEW).]

[PL 2019, c. 219, §3 (AMD).]

12. Bonding authority; debt limitation; allocation and payment of approved debt. An education service center may issue bonds and notes for school construction purposes. For purposes of this section, "school construction purposes" includes minor capital costs relating to maintenance of a

school's physical plant. The education service center board shall decide whether the issuance of bonds or notes by the education service center for school construction purposes is necessary. The board shall determine whether the issuance of bonds or notes is authorized, and, if so, the board shall issue the bonds or notes and administer the proceeds of, and the payment of principal of and interest on, those bonds or notes after issuance. An education service center may issue bonds and notes for school construction purposes only under the provisions of the interlocal agreement under section 3801, subsection 3. Upon receiving authorization to issue bonds or notes under the election procedures of the interlocal agreement, the board shall follow the requirements of section 1490 for issuing bonds or notes of the education service center.

A. Indebtedness of an education service center for school construction purposes may not exceed 4% of the total state valuation of the participating municipalities. For purposes of this section, "participating municipalities" of an education service center includes all municipal school units that are members of the education service center and the municipalities constituting the other members of the education service center. The debt limitation is determined as of the date the state board issues a project concept approval or in the case of a nonstate funded project the date the commissioner approves the project under section 15905-A. Debt of an education service center is outside the debt limitations of its members and of municipalities constituting its members. [PL 2019, c. 219, §12 (REV); PL 2019, c. 336, §1 (NEW).]

B. For purposes of determining a debt limitation under this subsection, debt approved for state subsidy is excluded. However, in cases in which one or more participating municipalities receive an adjustment for the minimum state allocation pursuant to section 15689, subsection 1, each outstanding state-subsidized debt allocable to a participating municipality that does not receive an adjustment for the minimum state allocation pursuant to section 15689, subsection 1 is excluded from the debt limitation, but only the state reimbursable portion of each outstanding state-subsidized debt allocable to a participating municipality that receives an adjustment for the minimum state allocation pursuant to section 15689, subsection 1 is excluded. [PL 2019, c. 336, §1 (NEW).]

C. For purposes of determining the debt limitation exclusion under paragraph B, when at least one participating municipality receives an adjustment for the minimum state allocation pursuant to section 15689, subsection 1, each issue of debt approved for purposes of state subsidy is allocated in proportion to the fiscal capacities of the education service center members. In the case of each education service center member that is a regional school unit, school administrative district or community school district, the amount of each fiscal capacity allocation under this subsection is allocated to the municipalities constituting the member in proportion to the municipalities' pupil counts in accordance with section 15688, subsection 2. For each participating municipality that receives an adjustment for the minimum state allocation pursuant to section 15689, subsection 1, the state reimbursable portion of an outstanding state-subsidized debt allocable to that participating municipality is the product of the amount of that education service center's debt allocated to the participating municipality under this section and the member's state share percentage, as defined in section 15672, subsection 31. [PL 2019, c. 219, §12 (REV); PL 2019, c. 336, §1 (NEW).]

D. For purposes of determining a debt limitation under this subsection, a certificate from the commissioner that a project qualifies for state school construction aid, as to the amount of debt that qualifies for that aid, as to the allocation of the debt to the members of the education service center, as to the allocation of debt to any participating municipality and as to the state share percentage for any participating municipality that receives an adjustment for the minimum state allocation pursuant to section 15689, subsection 1 is conclusive evidence of the facts stated in the certificate. [PL 2019, c. 219, §12 (REV); PL 2019, c. 336, §1 (NEW).]

E. The commissioner shall determine the state allocation for debt service costs by allocating the principal and interest payments for each debt approved for purposes of state subsidy among the

members of the education service center in proportion to the members' fiscal capacities. The adjustment for debt service under section 15689, subsection 2 applies to the debt service allocated to participating municipalities under this subsection. Each member's state allocation for debt service costs must be paid by the commissioner as provided by section 15907. The principal and interest payments on debt approved for purposes of state subsidy must be shared by the members of the education service center in accordance with the commissioner's allocation under this paragraph notwithstanding the cost-sharing formula of the education service center. [PL 2019, c. 219, §12 (REV); PL 2019, c. 336, §1 (NEW).]

[PL 2019, c. 219, §3 (AMD); PL 2019, c. 219, §12 (REV); PL 2019, c. 336, §1 (AMD).]

12-A. General obligation debt; assessment and collection; withdrawal. In the case of an education service center authorized to issue bonds or notes under the terms of an interlocal agreement, the following provisions apply.

A. Bonds and notes issued by an education service center are general obligations of the education service center. The provisions of sections 15695 and 15695-A apply, including provisions for the assessment and collection of taxes, the levy of ad valorem taxes without limit as to rate or amount upon all taxable property within the education service center and the rights and protection of bondholders. [PL 2019, c. 219, §12 (REV); PL 2019, c. 336, §2 (NEW).]

B. An education service center board shall include in each budget an amount sufficient to pay debt service on approved bonds or notes. The cost-sharing, assessment and payment process under section 3801, subsection 3, paragraph A, subparagraph (4) must include determining debt service amounts, except that the principal and interest payments on debt approved for purposes of state subsidy are shared by the members of the education service center in accordance with the commissioner's allocation under subsection 12. The school budget of each member must include an amount that is its share of the education service center costs, including debt service costs. Each member shall raise and assess a sufficient amount for its share of annual debt service not paid from other sources and may collect those amounts in the manner provided by law for school taxes. If the treasurer of a member fails to timely pay any installment by the date required, the education service center has the same rights and remedies of enforcement, including interest, court costs and attorney's fees, and the court has the same powers, as is provided for enforcement of regional school unit installments under section 1489, subsection 6. [PL 2019, c. 219, §12 (REV); PL 2019, c. 336, §2 (NEW).]

C. Whenever a member withdraws from an education service center having outstanding indebtedness, including bonds, notes and lease-purchase agreements, the education service center remains intact for purposes of securing and retiring the indebtedness. A withdrawal agreement may provide for alternate means for retiring outstanding indebtedness. [PL 2019, c. 219, §12 (REV); PL 2019, c. 336, §2 (NEW).]

[PL 2019, c. 219, §12 (REV); PL 2019, c. 336, §2 (NEW).]

13. Withdrawal from education service center. If a single school administrative unit applies to withdraw, it must demonstrate to the commissioner that the school administrative unit's withdrawing is in the best interests of the withdrawing school administrative unit and of any of the remaining member school administrative units of the education service center.

[PL 2019, c. 219, §3 (AMD).]

14. Dissolution of education service center. An education service center may not be dissolved unless it applies to the commissioner for approval and:

A. All member school administrative units apply to transfer to another education service center; or [PL 2019, c. 219, §3 (AMD).]

B. If all the member school administrative units of an education service center apply to dissolve the education service center, they demonstrate to the commissioner that it is in the best interests of

the member school administrative units of the education service center to dissolve the education service center. [PL 2019, c. 219, §3 (AMD).]
[PL 2019, c. 219, §3 (AMD).]

15. Reporting requirements. An education service center must meet state and federal reporting requirements on behalf of each member school administrative unit.
[PL 2019, c. 219, §3 (AMD).]

SECTION HISTORY

PL 2017, c. 284, Pt. VVVVV, §6 (NEW). PL 2019, c. 219, §3 (AMD). PL 2019, c. 219, §12 (REV). PL 2019, c. 336, §§1, 2 (AMD).

§3803. Oversight

The commissioner shall provide oversight of the education service centers, and this oversight must include the following. [PL 2019, c. 219, §3 (AMD).]

1. Data collection; monitoring. The commissioner or the commissioner's designee is responsible for collecting, analyzing and reporting data from education service centers. The commissioner or the commissioner's designee shall monitor the performance and legal compliance of the education service centers, including collecting and analyzing data to support ongoing evaluation of the education service centers.
[PL 2019, c. 219, §3 (AMD).]

2. Notification of unsatisfactory performance or compliance. If an education service center's performance or legal compliance appears unsatisfactory, the commissioner shall promptly provide written notice to the education service center and its members of perceived problems and provide reasonable opportunity for the education service center to remedy the problems. The education service center shall provide the commissioner a corrective action plan to remedy the problems.
[PL 2019, c. 219, §3 (AMD).]

SECTION HISTORY

PL 2017, c. 284, Pt. VVVVV, §6 (NEW). PL 2019, c. 219, §3 (AMD).

§3804. Audit

An education service center shall adhere to generally accepted accounting principles and shall annually engage an external auditor to do an independent audit of the education service center's finances. The education service center shall submit the audit to its members and to the department. The audit must be conducted in the same manner as a school administrative unit audit in accordance with chapter 221, subchapter 2. [PL 2019, c. 219, §3 (AMD).]

SECTION HISTORY

PL 2017, c. 284, Pt. VVVVV, §6 (NEW). PL 2019, c. 219, §3 (AMD).

§3805. Application for and approval of an education service center

1. Application. The commissioner shall establish an application process under this chapter for the formation of an education service center. The application must be in a form and contain such information as required by the commissioner, including, but not limited to:

- A. The identification of the school administrative units that are applying to form the education service center; [PL 2019, c. 219, §3 (AMD).]
- B. The specified structure and governance of the education service center and its purposes, functions, programs and services; [PL 2019, c. 219, §3 (AMD).]
- C. How any savings resulting from the formation of the education service center will be used; and [PL 2019, c. 219, §3 (AMD).]

D. A copy of the proposed interlocal agreement pursuant to section 3801, subsection 3. [PL 2017, c. 284, Pt. VVVVV, §6 (NEW).]
[PL 2019, c. 219, §3 (AMD).]

2. Commissioner's approval. If an application under this section contains the information required pursuant to subsection 1, the commissioner shall notify each school administrative unit participating in the education service center that, pending school board approval as set forth in subsection 3, the education service center is approved pursuant to this chapter. The commissioner shall keep a register of education service centers that have been approved pursuant to this chapter.
[PL 2019, c. 219, §3 (AMD).]

3. School administrative unit approval. If the commissioner approves an application for an education service center pursuant to subsection 2, the education service center must receive school board approval.
[PL 2019, c. 219, §3 (AMD).]

SECTION HISTORY

PL 2017, c. 284, Pt. VVVVV, §6 (NEW). PL 2019, c. 219, §3 (AMD).

§3806. Direct state funding of an education service center

An education service center receives direct state funds for start-up costs in accordance with section 15689, subsection 9. An education service center that provides to members at least 2 different services covering a total of at least 2 different categories as specified in section 15683-C, subsection 2 must receive annual state support for: [PL 2019, c. 219, §4 (NEW).]

1. Salary and benefits. Fifty-five percent of the executive director's salary and benefits or contracted leadership services, not to exceed 55% of the statewide average superintendent's salary and benefits using the most recent data available. For purposes of this subsection, "benefits" means the amounts paid by an employer to or on behalf of an employee that are not included in salary but augment salary as part of a full compensation package and are subject to federal income tax withholding;
[PL 2019, c. 219, §4 (NEW).]

2. Accounting system. An accounting and payroll system or financial software to assist with the fiscal management for the education service center; and
[PL 2019, c. 219, §4 (NEW).]

3. Student information system. A student information system.
[PL 2019, c. 219, §4 (NEW).]

The school administrative units that are members of an education service center must receive state funds in accordance with section 15683-C. [PL 2019, c. 219, §4 (NEW).]

SECTION HISTORY

PL 2017, c. 284, Pt. VVVVV, §6 (NEW). PL 2019, c. 219, §4 (RPR).

§3807. Regional school leadership academies

(REPEALED)

SECTION HISTORY

PL 2017, c. 284, Pt. VVVVV, §6 (NEW). PL 2019, c. 70, §4 (RP).

§3808. Collective bargaining in education service centers

1. Assumption of obligations, duties, liabilities and rights. On and after the operational date of an education service center, teachers and other employees whose positions are transferred from a school administrative unit to the education service center and were included in a bargaining unit represented by a bargaining agent, and for participating school administrative units, teachers and other employees

who are subsequently employed by the education service center and were included in a bargaining unit and represented by a bargaining agent, continue to be included in the same bargaining unit and represented by the same bargaining agent pending completion of the bargaining agent and bargaining unit merger procedures and bargaining for initial education service center collective bargaining agreements covering education service center employees, as described in this section. After teachers and other employees become employees of the education service center, the education service center has the obligations, duties, liabilities and rights of a public employer pursuant to Title 26, chapter 9-A with respect to those teachers and other employees.

[PL 2019, c. 219, §12 (REV); PL 2019, c. 460, §3 (NEW).]

2. Structure of bargaining units. All bargaining units of education service center employees must be structured on an education service center-wide basis. Teachers and other employees who are employed by the education service center to provide consolidated services must be removed from the existing bargaining units of teachers and other employees who are employed by each member school unit and merged into units of education service center employees. Merger into education service center-wide bargaining units is not subject to approval or disapproval of employees. Formation of education service center-wide bargaining units must occur in accordance with this subsection.

A. In each education service center, there must be one bargaining unit of teachers, if any teachers are employed by the education service center, and, to the extent they are on the effective date of this paragraph included in bargaining units, other certified professional employees, excluding principals and other administrators. [PL 2019, c. 219, §12 (REV); PL 2019, c. 460, §3 (NEW).]

B. Any additional bargaining units in an education service center must be structured as follows.

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

(2) In the event of a dispute regarding the classifications to be included within an education service center-wide bargaining unit, the current bargaining agent or agents or the education service center may petition the Maine Labor Relations Board to determine the appropriate unit in accordance with this section and Title 26, section 966. [PL 2019, c. 219, §12 (REV); PL 2019, c. 460, §3 (NEW).]

C. When there is the same bargaining agent in all bargaining units that will be merged into an education service center-wide bargaining unit, the units must be separated and merged on the operational date or the date represented employees are transferred to the education service center, whichever is applicable, and the education service center shall recognize the bargaining agent as the representative of the merged unit. [PL 2019, c. 219, §12 (REV); PL 2019, c. 460, §3 (NEW).]

D. When all bargaining units that will be separated and merged into an education service center-wide bargaining unit are represented by separate local affiliates of the same state labor organization, the units must be separated and merged on the operational date or the date represented employees are transferred to the education service center, whichever is applicable. The identity of a single affiliate that will be designated the bargaining agent for the merged unit must be selected by the existing bargaining agents and the state labor organization. Upon completion of the merger and designation of the bargaining agent and notification by the state labor organization to the education service center, the education service center shall recognize the designated bargaining agent as the representative of employees in the merged unit. If necessary, the parties shall then execute a written amendment to any collective bargaining agreement then in effect to change the name of the bargaining agent to reflect the merger. [PL 2019, c. 219, §12 (REV); PL 2019, c. 460, §3 (NEW).]

E. When there are bargaining units that will be separated and merged into an education service center-wide bargaining unit in which there are employees who are not represented by any bargaining agent and other employees who are represented either by the same bargaining agent or separate local affiliates of the same state labor organization, the units must be separated and merged on the operational date or the date represented employees are transferred to the education service center, whichever is applicable, as long as a majority of employees who compose the merged unit were represented by the bargaining agent prior to the merger. The procedures for separation and merger of separate local affiliates of the same state labor organization described in paragraph D must be followed if applicable. If prior to the merger a bargaining agent did not represent a majority of employees who compose the merged unit, a bargaining agent election must be conducted by the Maine Labor Relations Board pursuant to paragraph F. [PL 2019, c. 219, §12 (REV); PL 2019, c. 460, §3 (NEW).]

F. When bargaining units with different bargaining agents must be merged into a single education service center-wide bargaining unit pursuant to this section, the bargaining agent of the merged bargaining unit must be selected in accordance with Title 26, section 967 except as modified in this section.

(1) A petition for an election to determine the bargaining agent must be filed with the Maine Labor Relations Board by any of the current bargaining agents or the education service center.

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

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

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

(5) The Maine Labor Relations Board shall expedite to the extent practicable all petitions for determination of the bargaining agent in the education service center filed pursuant to this section.

(6) The bargaining units must be merged into an education service center-wide bargaining unit as of the date of certification of the results of the election by the Maine Labor Relations Board or the expiration of the collective bargaining agreements in the unit, whichever occurs later.

(7) Until the first August 31st occurring after either the 3rd anniversary date of the operational date of the education service center or the date on which positions are transferred from member school units to the education service center, whichever is later, existing bargaining agents shall continue to represent the bargaining units that they represented on the day prior to the operational date of the education service center. If necessary, each bargaining agent and the education service center must negotiate interim collective bargaining agreements to expire the first August 31st occurring after either the 3rd anniversary date of the operational date of the

education service center or the date on which positions are transferred from member school units to the education service center, whichever is later.

(8) When there are 2 or more bargaining units in which there are employees who are represented either by the same bargaining agent or by separate local affiliates of the same state labor organization that will be merged into an education service center-wide bargaining unit with one or more other bargaining units pursuant to the election procedures described in this paragraph, the bargaining units that are represented either by the same bargaining agent or by separate local affiliates of the same state labor organization must merge as of the operational date. The procedures for merger of separate local affiliates of the same state labor organization described in paragraph D must be followed if applicable. [PL 2019, c. 219, §12 (REV); PL 2019, c. 460, §3 (NEW).]

[PL 2019, c. 219, §12 (REV); PL 2019, c. 460, §3 (NEW).]

3. Agent to engage in collective bargaining. After the merger of bargaining units in an education service center, the bargaining agent of an education service center-wide bargaining unit and the education service center shall engage in collective bargaining for a collective bargaining agreement for the education service center-wide bargaining unit. In the collective bargaining agreement for each education service center-wide bargaining unit, the employment relations, policies, practices, salary schedules, hours and working conditions throughout the education service center must be made uniform and consistent as soon as practicable. In the event that the parties are unable to agree upon an initial education service center-wide collective bargaining agreement, the parties shall use the dispute resolution procedures pursuant to Title 26, section 965 to resolve their differences.

[PL 2019, c. 219, §12 (REV); PL 2019, c. 460, §3 (NEW).]

4. Application of collective bargaining agreements. On and after the operational date of an education service center, but before the completion of negotiations for a single education service center-wide collective bargaining agreement for the education service center-wide bargaining unit, the wages, hours and working conditions of an employee of the education service center who is in a bargaining unit and who is reassigned to a different position that is in a different bargaining unit but that upon the completion of the merger of bargaining units will be included in the same education service center-wide bargaining unit must be determined by the terms of the collective bargaining agreement that applies to the position to which the employee is reassigned, except as provided in this subsection.

A. If the application of the collective bargaining agreement that applies to the position to which the employee is reassigned would cause a reduction in the employee's wage or salary rate, the employee's wage or salary rate must be maintained at the rate the employee was paid immediately prior to the reassignment until the completion of negotiations for a single education service center-wide collective bargaining agreement for the education service center-wide bargaining unit or the applicable collective bargaining agreement requires a higher wage or salary rate for the employee, whichever occurs sooner. [PL 2019, c. 219, §12 (REV); PL 2019, c. 460, §3 (NEW).]

B. If the application of the existing collective bargaining agreement that applies to the position to which the employee is reassigned would cause a reduction in the amount that is paid by the education service center for premiums for health insurance for the employee and the employee's dependents, the education service center's payment must be maintained at the amount that was paid immediately prior to the reassignment until the completion of negotiations for a single education service center-wide collective bargaining agreement for the education service center-wide bargaining unit or the applicable collective bargaining agreement requires a higher payment, whichever occurs sooner. [PL 2019, c. 219, §12 (REV); PL 2019, c. 460, §3 (NEW).]

C. If the application of the existing collective bargaining agreement that applies to the position to which the employee is reassigned provides for coverage under a different health insurance plan, the employee may elect to retain coverage under the health insurance plan in which the employee

was enrolled immediately prior to reassignment if the eligibility provisions of the plan permit until the completion of negotiations for a single education service center-wide collective bargaining agreement for the education service center-wide bargaining unit. [PL 2019, c. 219, §12 (REV); PL 2019, c. 460, §3 (NEW).]

[PL 2019, c. 219, §12 (REV); PL 2019, c. 460, §3 (NEW).]

SECTION HISTORY

PL 2019, c. 219, §12 (REV). PL 2019, c. 460, §3 (NEW).

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