



COLLECTIVE BARGAINING: The Basics, Trends and Strategies

CABE/CAPSS CONVENTION

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OVERVIEW OF RELEVANT STATUTES

Municipal Employee Relations Act (MERA or the ACT)

- Applies to municipal employees, e.g. police, fire, public works
- Also applies to all non-certified Board of Education employees

Municipal Employee Relations Act (MERA or the ACT)

Timetables

Negotiations

- **120 days** before expiration of the current contract – parties must begin negotiations, typically March 1 (CGS 7-473b). The parties' obligation to begin negotiations includes the following:
 - Duty to meet
 - Set ground rules – must be bargained for in same manner as substantive provisions, generally involve:
 - Timetables
 - Publicity
 - Order of bargaining
 - Duty to make proposals
 - Duty to share information

Timetables (cont.)

- 50 days after commencement of negotiations – if no agreement, mediator from SBMA appointed. (CGS 7-473b), however, mediation is not mandatory
- Any agreement reached by the negotiators shall be reduced to writing
- Within 14 days of written agreement – agreement must be submitted to legislative body, which may approve or reject by majority vote of those present and voting (CGS 7-474(b))
 - If rejected, returned to the parties for further bargaining
 - Considered approved if legislative body fails to vote to approve or reject within 30 days of the end of the 14 day period

Timetables (cont.)

Arbitration

- 30 days after expiration of current contract – binding and final arbitration imposed by SBMA (CGS 7-473c(b)1))
- Within 10 days of notification by SBMA – employer and union each select party arbitrator (CGS 7-743c(b)(2))
- 5 days from selection of party arbitrators – neutral arbitrator chosen by party arbitrators from neutral list established by statute. Neutral arbitrator shall be the panel chair (CGS 7-473c(b)(2))

Timetables (cont.)

10 days from appointment of neutral – chair shall hold a hearing (CGS 7-473c(c))

- Requires 5 day notice to the employer and union
- Colloquially referred to as a “bump and run”
- Sets agreed upon dates for continuation of arbitration hearing

2 days prior to hearing –each party to provide proposed collective bargaining agreement (CGS 7-473c(d)(1))

- in numbered paragraphs
- terms acceptable to that party
- cost data for all provisions
- NB: Often the parties will skip this process and instead do a waiver and an agreed upon language document

Timetables (cont.)

- At commencement of hearing – each party shall submit replies identifying:
 - acceptable paragraphs
 - unacceptable paragraphs
 - alternative language for unacceptable paragraphs (CGS 7-473c(d)(1))
- Stipulations as to agreed-upon provisions may be submitted by the parties any time prior to decision (CGS 7-473c(d)(1))
- No party may submit for binding arbitration any issue or proposal which was not presented during the negotiation process unless the submittal of such additional issue or proposal is agreed to by the parties (CGS 7-473c(g))

Timetables (cont.)

- 20 days for hearing to conclude – this time limit may be waived by the parties. (CGS 7-473c(d)(1)), and usually is
- 5 days after conclusion of testimony – panel shall forward arbitration statement setting forth all provisions agreed upon and those issues that remain unresolved (CGS 7-473c(d)(2))
- 10 days after conclusion of testimony – the parties shall file with the SBMA five copies of their statements of “last best offer” (LBO) on each issue.(CGS 7-473c(b)(3))

Timetables (cont.)

“Last Best Offer” – the arbitrator must accept the position of one party or the other on each issue and is not free to make a decision that is a compromise or combination of the parties’ positions. Nor is the arbitrator free to fashion his/her own position, he/she must choose between the final positions of one party or the other.

Timetables (cont.)

- Within 7 days of distribution of LBO – parties may file briefs on unresolved issues with SBMA, which secretary distributes, as above (CGS 7-473c(d)(4))
- 5 days of distribution of briefs – reply briefs, which are simultaneously distributed (CGS 7-473c(d)(5))
- 20 days after briefs filed – the panel shall issue, upon majority vote, its decision and file with SBMA (CGS 7-473c(d)(6))
 - Each unresolved issue treated as separate question to be decided
 - Panel shall accept LBO of one party or the other
 - Each member shall state specific reasons/rationale for decision on each unresolved issue
- The parties may file with the Panel stipulations modifying, deferring or waiving any of all time provisions in (CGS 7-473c(d)(7))

Considerations of Arbitration Panel

- “In arriving at a decision, the arbitration panel shall give priority to the public interest and the financial capability of the municipal employer, including consideration of other demands on the financial capability of the municipal employer.” (CGS 7-473c(d)(9)) There is an irrebuttable presumption that 15% of the budget reserve is not available to pay cost of a contract. (PA-17-2) By statute, the panel shall further consider:
 - Prior negotiations between the parties
 - Interests and welfare of the employee group
 - Changes in cost of living
 - Existing conditions of employee group and similar groups
 - Wages, salaries, fringe benefits and other conditions of employment in the current labor market, including private sector wages and benefits

Effect Of Panel's Decision

- The decision of the panel and resolved issues shall be final and binding upon the municipal employer and union, except if award rejected by two-thirds vote of legislative body (CGS 7-473c(d)(10))
- Within **25 days of receipt of the award**, legislative body may reject by two thirds vote of those present at a regular or special meeting (CGS 7-473c(d)(12))
- Within 10 days of rejection of award, the legislative body required to submit a written statement to the SBMA and Union stating the reasons for such vote. (CGS 7-473c(d)(13))
- Within 10 days of receipt of written statement, Union shall submit written response to SBMA and legislative body (CGS 7-473c(d)(13))

Effect Of Panel's Decision (cont.)

- Within 10 days of receipt of rejection notice, the SBMA shall select a review panel of three arbitrators (or if the parties agree, a single arbitrator) who are residents of Connecticut and on the American Arbitration Association approved list of arbitrators, to review the decision on each rejected issue. (CGS 7-473c(d)(14))
 - Review is limited to the record and the briefs, the written explanation of the rejection vote and the written response by either party.
 - Review is limited to same criteria and shall accept the LBO of either party.
 - Shall be completed within 20 days of appointment.

Effect Of Panel's Decision (cont.)

- Within 5 days of completion of review, arbitration decision shall be issued, which shall be final and binding unless motion to vacate or modify filed with the Superior Court (CGS 7-473c(d)(15))
- The budget-appropriating body of the municipality shall appropriate whatever funds are required to comply with agreement reached under CGS 7-474(b) or arbitration decision under CGS 7-472 or 7-4743c (CGS 7-474(c))

TEACHER NEGOTIATIONS ACT (TNA)

- Basically the same as MERA, with a few very important differences.
- Applies to “certified” employees, i.e., teachers and administrators

Timelines

- provides for a meeting between Board and fiscal authority of the municipality within thirty (30) days of commencing negotiations (C.G.S. §10-153d)
- representative of the fiscal authority may be present (i.e. as an observer) during negotiations
- “hours” – length of student school year and school day, scheduling of student year, length and number of parent teacher conferences, early retirement incentives, and teacher evaluation plans are not mandatory subjects of bargaining (C.G.S. §10-153d(b))

Negotiations

- commence not less than two hundred and ten (210) days prior to Board's budget submission date
- contract must be submitted to the Legislative body of the Town/City, binding unless rejected within thirty (30) days of submission (C.G.S. §10-153d(b))

Mediation

- if the parties have not settled prior to the one hundred and sixtieth (160th) day prior to budget submission, they are ordered into mediation, i.e., it is mandatory

Arbitration

- if the parties have not settled prior to the one hundred and thirty-fifth (135th) day prior to budget submission, arbitration is imposed

NB: SDE provides these dates in late Spring

- five (5) days to appoint the Party's selected arbitrator
- five (5) days for the Parties to select a third arbitrator
- initial hearing must take place within five (5) to twelve (12) days (C.G.S. §10-153f(c)(2)) after appointment of the panel
- the hearing must conclude within twenty-five (25) days (C.G.S. §10-153f(c)(3))
- the arbitrators have twenty (20) days to issue their decision
- the decision of the arbitrators is binding unless rejected by the Legislative body of the Town/City by a 2/3rds vote of the body within twenty-five (25) days of the date of the award (C.G.S. §10-153f(c)(7))

Arbitration (cont.)

- the arbitrators must give priority consideration to the public interest (not defined) and the financial capability of the Town/City. There is a presumption that a budget reserve of 5% [NOTE: MERA is 15%] or less is unavailable for paying the cost associated with the award
- the remaining statutory factors are as follows:
 - A. the negotiations between the parties prior to arbitration, including the offers and the range of discussion of the issues.
 - B. the interests and welfare of the employee group.
 - C. changes in the cost of living averaged over the preceding three years.
 - D. the existing conditions of employment of the employee group and those of similar groups; and
 - E. the salaries, fringe benefits, and other conditions of employment prevailing in the state labor market, including the terms of recent contract settlements or awards in collective bargaining for other municipal employee organizations and developments in private sector wages and benefits.
- the fiscal authority has the right to participate in arbitration typically in the form of testimony

OBSERVATIONS FROM THE TRENCHES

Wages

Teachers:

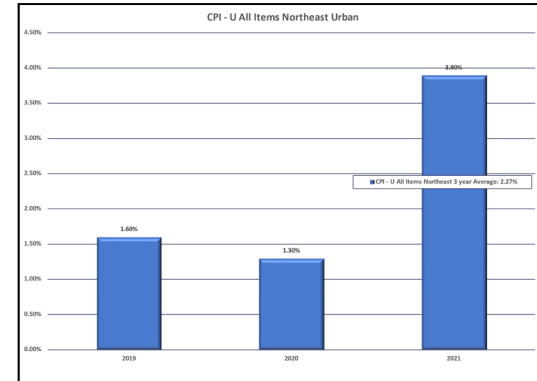
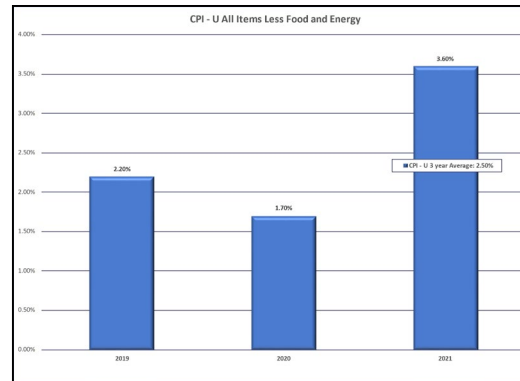
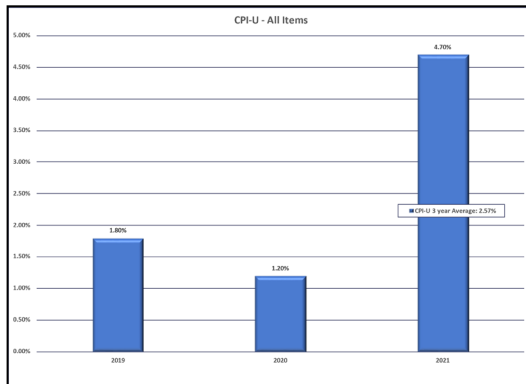
- Settlements with increment averaged about 3.20% in 2021 negotiations, or 9.6% for 3 years; 2022 settlements are averaging 4%, or 12% over 3 years
- 2019: there was one binding arbitration award, Woodbridge Teachers:
 - Neutral Arbitrator: Michael Ricci
 - Total 3 year cost was 9.0%
 - Panel awarded step movement each year
 - Panel eliminated board paid retiree health for new hires
- Only teacher arbitration award in 2021 was Windsor Locks:
 - The with increment wages came out to 2.00%, 3.47% and 3.49% for a total of 8.96%
 - Extracurricular salaries increased a total 4.00%, year one: 2%; years two and three by 1.0%
- This year none have gone to award yet, though a couple started then settled (Greenwich and Trumbull)

Settlement Data:

- 2015-16 - 9.72%
- 2016-17 - 9.25%
- 2017-18 - 7.78%
- 2018-19 - 8.5%
- 2019-20 - 9.0%
- 2020-21 - 11.3%
- 2021-22 - 9.6%
- 2022-23 - 12% (current)

Wages (cont.)

- CPI – TNA looks back 3 years
- current CPI has averaged around 2.57%



- Steps – The aggregate cost of advancing those on step, e.g. if 50% are on step, assume a perfect 4% difference between steps, cost of step is 2.0%
- Delaying steps mid-year can reduce the cost of step in the year of the delayed step, but beware the remainder carries over into the following year
- Generally, arbitrated awards average about .2% per year below negotiated settlements

Administrators

- Subject to the TNA so same time tables and procedures
- Administrator settlements have averaged about 2.5% per year.
- Administrator asks in recent years
 - salary protection in RIF situation
 - long term care
 - Board funded annuities
 - retiree medical
 - long term disability insurance
 - anything else the Superintendent might have in his/her contract

Health Insurance

- State Partnership 2.0 Plan
 - the State of Connecticut will allow Boards/Towns access to their \$15 Co-pay Plan
 - if the cost of family coverage is in excess of \$30,000, you can possibly save money from switching to the State Plan
 - down side to the plan, including:
 - plan design cannot be changed, possible withdrawal liability if you leave within 3 years
 - if you are in a self-funded plan, and go to the State Plan, then wish to return to a self-funded plan, you will need to accumulate/fund reserve again
 - pre-65 retiree medical is extremely expensive (above \$50,000)
 - is this an answer for your District?

Health Insurance (cont.)

- The trend is still towards high deductible plans typically with deductibles of \$2,000 single/\$4,000 two or family, funded 50% by employer, though trending towards \$2,250/\$4,500. Consider:
 - in network coinsurance and/or post deductible prescription co-pays
- Waivers
 - in a self-funded insured plan arguably does not make sense
 - cost share contributions are high enough to incentivize employees to waive
 - seeing minimal increases in cost-share percentages this year

Health Insurance (cont.)

- Certified Staff
 - post-65 insurance coverage - consider TRB plan
 - less expense than Anthem and other plans since it is subsidized by the State, ex: Milford saved 30%
 - benefits are rich: includes vision, dental and Rx
 - TRB Advantage (is the new TRB Base Plan) – be specific in your contracts allowing a buy-up at the employee's cost
- Non-Certified Staff
 - health benefits were inexpensive years ago so many districts gave away very generous benefits for retiree and dependents at virtually no cost
 - now accounting rules regarding OPEB have brought to light how expensive these benefits are, e.g. Westport \$10 million/yr
 - if offered make sure benefits and employee cost are not locked in at retirement
 - consider eliminating for new hires if you currently provide

Pension Concessions

- Applicable to non-certified staff only because teachers are in the State TRB plan
- In most communities, part of Town/City plan and Town/City will generally negotiate the terms
- If you are “charged” by the Town/City for the pension contributions, or maintain your own plan, consider bargaining concessions if your plan is funded less than 75%, or your Annual Required Contribution is rising putting pressure on your operating budget

Management Rights

- Common in non-teacher contracts
- Uncommon in teacher contracts
- Our State Labor Board requires specificity in language or it will not find the employer has the right to make unilateral changes, e.g. transfer and assignment of staff
- Accordingly, consider a Management Rights clause with very specific rights such as to transfers, make assignments, and the like

New Legislation

- SB-1 guarantees 30 minutes uninterrupted lunch for teachers
- P.A. 21-25 requires employers to provide information to Union re: new hires; allowing access to new employees during orientation; allows union to communicate with employees via employer email; prohibits encouraging employees to not join the Union.
- P.A. 22-24 prohibits “captive audience” speeches regarding union activity, religious or political views.

Labor Shortage – Impact on School Districts

- Minimum wage is \$14; increase to \$15 on 6/1/23
- Districts are having difficulty recruiting/retaining staff, particularly Paras, Food Service, Bus Drivers

Questions?