



700 Broadway, Suite 810 • Denver, CO 80203-3442 • 303.299.3600 • Fax: 303.296.8332 •

State Collective Bargaining Policies for Teachers

Updated by Emily Workman

December 2011

Collective bargaining for teachers is a relatively new phenomenon. A 1960 teacher strike in New York City led to the first-ever (1962) collective bargaining agreement between the United Federation of Teachers and the City of New York. As strikes spread across the country in the 1960s and 70s, many states eventually passed public sector collective bargaining legislation that codified negotiations between teacher unions and school districts. As collective bargaining spread across the nation, so did the power of teachers' unions such as the American Federation of Teachers (AFT) and the National Education Association (NEA). The power teachers' unions wield over education policy, often through the collective bargaining agreements, is praised by some, while derided by others. Collective bargaining for teachers is a contentious issue that promises to grow increasingly complex as governance reform — changing who makes what decisions about public education — takes center stage.

Collective bargaining, if a state allows it, always occurs at the school district level. State policy, however, influences the process in a number of ways, from prohibiting strikes to dictating the terms of arbitration. This *ECS StateNote* addresses the following areas of collective bargaining state policy:

- **STATE POLICY:** This section addresses whether a state has a collective bargaining law.
- **COVERAGE/EXCLUSIONS:** This section presents who is covered under the law, such as teachers, and who may be excluded from coverage, such as superintendents and other school administrators.
- **SCOPE OF BARGAINING:** This section details which issues are negotiable under the state's collective bargaining law. Though some states actually allow teachers to bargain over issues of curriculum or classroom management, most limit the scope of bargaining to wages, hours and other conditions of employment such as health benefits, vacation time or pension plans.
- **RIGHT TO WORK:** "Right to work" laws prevent collective bargaining agreements from containing union security clauses that require workers to support and share the costs of union representation.
- **BARGAINING IMPASSE PROCEDURES:** This section addresses what steps are taken to reach a resolution if an agreement cannot be reached through initial

negotiations between a teachers' union and a school district. Three common strategies are used:

- Mediation – a third party attempts to broker an agreement between the two parties.
- Fact-finding – an impartial panel reviews both sides of the dispute, report their findings and occasionally make recommendations for settlement.
- Arbitration – an impartial party holds a formal hearing and determines a resolution, is similar to mediation, but the ruling of the third party is often binding and final.

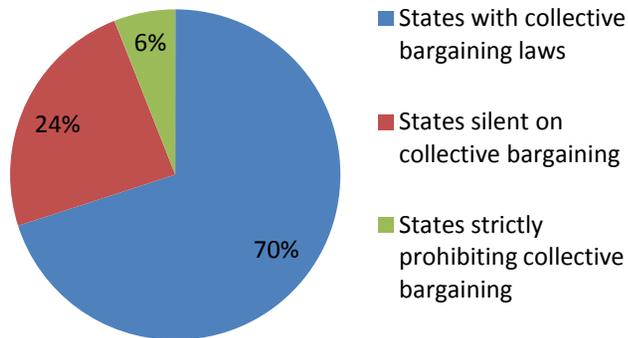
- Voluntary arbitration – one side or the other can request a hearing.
- Mandatory arbitration – the two sides are required to submit to a formal hearing.

• **STRIKES:** This section presents whether strikes by teachers or other public employees are prohibited or permitted under state policy, and, if they are prohibited, whether there are any penalties for those who strike. Penalties for strikes range from fines to dismissal to, in some cases, imprisonment.

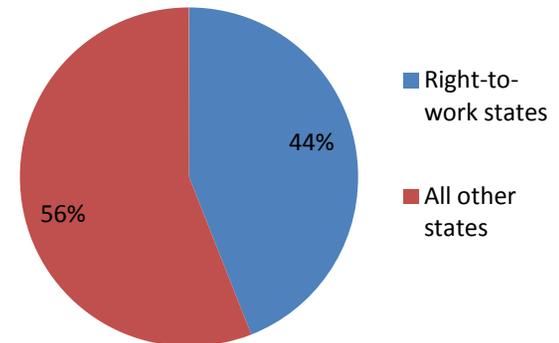
Highlights:

- 35 states authorize collective bargaining
- 3 states strictly prohibit collective bargaining
- 22 states have a right-to-work law
- Bargaining impasse procedures
 - 32 states specify mediation
 - 20 states use fact-finding procedures
 - 20 states provide for voluntary arbitration
 - 2 states mandate arbitration
- 27 states prohibit strikes
- 8 states permit strikes
- 18 states impose penalties for strikes

Collective Bargaining Laws



Right-to-work



Highlights of recent changes to collective bargaining laws:

- **Idaho**
 - Limited subjects of bargaining to compensation
 - Required a union to represent at least 50 % of teachers in district before being recognized
 - Limited contract length to one year
 - Removed fact-finding from impasse procedures
 - Permitted board to establish compensation if mediation fails (2011)

- **Illinois**
 - Added the length of the school day and length of the work and school year to permissive subjects of bargaining for educational employers whose territorial boundaries are coterminous with those of a city having a population in excess of 500,000
 - Required that permissive subjects are treated in a different manner than mandatory subjects of bargaining when the parties reach an impasse
 - Required that at least three-fourths of all bargaining unit members affirmatively vote to authorize a strike before it is legal to do so (2011)

- **Indiana**
 - Removed hours from its subjects of bargaining and explicitly prohibited bargaining over all other subjects not expressly listed, including (1) the school calendar; (2) teacher dismissal procedures and criteria; (3) restructuring options; (4) the ability of a school employer to contract, partner, or operate jointly with an educational entity; and (5) teacher evaluation procedures (2011)

- **Michigan**
 - Required that each collective bargaining agreement include a provision that allows an emergency manager appointed under the local government and school district fiscal accountability act to reject, modify, or terminate the collective bargaining agreement
 - Added six additional subjects that would be prohibited from collective bargaining, including (1) placement of teachers; (2) personnel decisions when conducting a reduction in force, a recall or when hiring; (3) performance evaluation systems; (4) the discharge or discipline of employees; (5) the format or number of classroom observations conducted during performance evaluations; and (6) the method of performance-based compensation (2011)

- **Tennessee**
 - Replaced the Educators Professional Negotiation act with the Professional Educators Collaborative Conferencing Act of 2011 and the act requires that a majority of professional employees request collaborative conferencing before the board of education is required to do so
 - Limited the subjects that can be conferred over
 - Granted the board of education authority to address terms and conditions if an impasse is reached (2011)

- **Wisconsin** (For municipal employees only)
 - Limited subjects of bargaining to base wages only
 - Granted employees the right to refrain from paying union dues
 - Limited contract terms to one year and prohibited strikes (2011)

Key: M = Mediation F = Fact-finding VA = Voluntary arbitration MA = Mandatory arbitration

STATE	STATE POLICY	COVERAGE/EXCLUSIONS	SCOPE OF BARGAINING	RIGHT-TO-WORK	BARGAINING IMPASSE PROCEDURES	STRIKES
Alabama [ALA. CODE § 25-7-12]	No state collective bargaining law			X		
Alaska [ALASKA. STAT § 23.40.070]	Recognizes the right of public employees to organize for the purpose of collective bargaining and requires public employers to negotiate with and enter into written agreements with employee organizations	All public employees	Wages, hours, and other terms and conditions of employment		M; MA	Permitted
Arizona [ARIZ. REV. § 23-1302]	No state collective bargaining law			X		
Arkansas [ARK. CODE. ANN. § 11-3-303]	No state collective bargaining law			X		
California [CAL. GOV'T CODE § 3540]	Recognizes the right of public school employees to join organizations of their own choice, to be represented by the organizations in their professional and employment relationships with public school employers, to select one employee organization as the exclusive representative of the employees in an appropriate unit, and to afford certificated employees a voice in the formulation of educational policy	Public school employees except management employees, supervisory and confidential employees	Wages, hours, and other terms and conditions of employment		M; F; VA	

Key: M = Mediation F = Fact-finding VA = Voluntary arbitration MA = Mandatory arbitration						
STATE	STATE POLICY	COVERAGE/EXCLUSIONS	SCOPE OF BARGAINING	RIGHT-TO-WORK	BARGAINING IMPASSE PROCEDURES	STRIKES
Colorado	No state collective bargaining law					
Connecticut [CONN. GEN. STAT. § 10-153A]	Provides rights concerning professional organization and negotiation	Members of the teaching profession, excluding superintendent of schools, assistant superintendents, certified professional employees, temporary substitutes and all noncertified employees of the board of education	Salaries, hours and other conditions of employment		M; MA	Prohibited
Delaware [DEL. CODE ANN. tit. 14 § 4001]	Obligates boards of education and school employee organizations that have been certified as representing their school employees to enter into collective bargaining negotiations with the willingness to resolve disputes	Any employee of a public school employer except school administrators and confidential employees	Wages, salaries, hours, grievance procedures and working conditions		M; F; VA	Prohibited w/ penalties
Florida [FLA. STAT. § 447.201]	Grants to public employees the right of organization and representation and requires the state, local governments and other political subdivisions to negotiate with bargaining agents duly certified to represent public employees	All public employees, including school employees with the exception of managerial employees	Wages, hours, and terms and conditions of employment except those provided for in applicable merit and civil service rules and regulations	X	M; F	Prohibited w/ penalties
Georgia [GA. CODE. ANN. § 34-6-21; 45-19-2]	No state collective bargaining law			X		Prohibited

Key: M = Mediation F = Fact-finding VA = Voluntary arbitration MA = Mandatory arbitration						
STATE	STATE POLICY	COVERAGE/EXCLUSIONS	SCOPE OF BARGAINING	RIGHT-TO-WORK	BARGAINING IMPASSE PROCEDURES	STRIKES
Hawaii [HAW. REV. STAT. §89-1]	Recognizes the right of public employees to organize for the purpose of collective bargaining and requires public employers to negotiate with and enter into written agreements with the exclusive representatives	All public employees excluding top-level managerial and administrative personnel, confidential, part-time or temporary employees	Wages, hours, the amounts of contributions by the State and respective counties to the Hawaii employer-union health benefits trust fund, and other terms and conditions of employment		M; VA	Permitted w/ conditions
Idaho [IDAHO CODE § 33-1271; 44-2001]	Empowers the board of trustees of each school district, including specially chartered districts, or the designated representative(s) of such district to, upon its own initiative or upon the request of a local education organization representing a majority (more than 50% or greater) of the professional employees, request negotiations with the local education organization or the designated representative(s) of such organization on behalf of the professional employees employed by the school district and negotiate with such party in good faith	Any certificated employee of a school district, excluding superintendents, supervisors and principals	Compensation – salary and benefits	X	M	

Key: M = Mediation F = Fact-finding VA = Voluntary arbitration MA = Mandatory arbitration						
STATE	STATE POLICY	COVERAGE/EXCLUSIONS	SCOPE OF BARGAINING	RIGHT-TO-WORK	BARGAINING IMPASSE PROCEDURES	STRIKES
Illinois [115 ILL. COMP. STAT. 5/1]	Grants to educational employees the right to organize and choose freely their representatives and requires educational employers to negotiate and bargain with employee organizations	Any educational employee, excluding supervisors, managerial, confidential, short-term employees, student and part-time academic employees of community colleges	Wages, hours, terms and conditions of employment		M; F; VA	Permitted w/ conditions
Indiana [IND. CODE ANN. § 20-29-1-1]	Obligates the school employer and the exclusive representative to bargain collectively in good faith and execute a written contract incorporating any agreement	All school employees, excluding supervisors, confidential employees, employees performing security work and noncertificated employees	Salary, wages, and salary- and wage-related fringe benefits		M;F	Prohibited w/ penalties
Iowa [IOWA CODE § 20.1; 731.1]	Permits public employees to organize and bargain collectively	All public employees, excluding supervisory employees, confidential employees, and temporary employees	Wages, hours, insurance, holidays, leaves of absence, supplemental pay, seniority, transfer procedures, evaluation procedures, procedures for staff reduction, among others	X	M; VA	Prohibited w/ penalties
Kansas [KAN. STAT. ANN. § 72-5410]	Grants professional employees the right to form, join or assist professional employees' organizations, to participate in professional negotiation with boards of education through representatives of their own choosing for the purpose of establishing, maintaining, protecting or improving terms and conditions of professional service	Teachers, excluding administrators and retirees	Salaries and wages, including pay for duties under supplemental contracts, hours and amounts of work, retirement, grievance procedure, disciplinary procedures, among others	X	M; F	Prohibited

Key: M = Mediation F = Fact-finding VA = Voluntary arbitration MA = Mandatory arbitration						
STATE	STATE POLICY	COVERAGE/EXCLUSIONS	SCOPE OF BARGAINING	RIGHT-TO-WORK	BARGAINING IMPASSE PROCEDURES	STRIKES
Kentucky	No state collective bargaining law					
Louisiana [LA. REV. STAT. ANN. § 23-981]	No state collective bargaining law			X		
Maine [ME. REV. STAT. ANN. tit. 26 § 961]	Recognizes the right of public employees to join labor organizations of their own choosing and to be represented by such organizations in collective bargaining	All municipal employees excluding administrators, superintendents, short-term or temporary workers	Wages, hours, working conditions and contract grievance arbitration		M; F; VA	Prohibited w/ penalties
Maryland [MD. CODE ANN., EDUC. § 6-401; 6-501]	Requires that a public school employer or at least two of its designated representatives meet and negotiate with at least two representatives of the employee organization that is designated as the exclusive negotiating agent for the public school employees in a unit of the county	Any certificated public school employee except for a county superintendent or an individual designated by the public school employer to act in a negotiating capacity All non-certificated public schools employees excluding management personnel, confidential employees or any individual designated by the public school employer to act in a negotiating capacity	Certificated public school employees: salaries, wages, hours and other working conditions, including procedures regarding employee transfers and assignments Non-certificated public school employees: salaries, wages, hours and other working conditions, including the discipline and discharge of an employee for just cause		M; VA	Prohibited w/ penalties
Massachusetts [MASS. ANN. LAWS ch. 150E § 1]	Grants employees the right of self-organization and the right to form, join or assist any employee organization	All public employees excluding managerial or confidential employees	Wages, hours, and other terms and conditions of employment		M; F; VA	Prohibited w/ penalties

Key: M = Mediation F = Fact-finding VA = Voluntary arbitration MA = Mandatory arbitration						
STATE	STATE POLICY	COVERAGE/EXCLUSIONS	SCOPE OF BARGAINING	RIGHT-TO-WORK	BARGAINING IMPASSE PROCEDURES	STRIKES
	for the purpose of bargaining collectively, and the employer and the exclusive representative are required to meet at reasonable times and negotiate in good faith					
Michigan [MICH. COMP. LAWS § 423-201]	Grants public employees the right to organize together or to form, join or assist in labor organizations, to engage in lawful concerted activities for the purpose of collective negotiation or bargaining or other mutual aid and protection, or to negotiate or bargain collectively with their public employers through representatives of their own free choice	All public employees, excluding administrators and temporary employees	Rates of pay, wages, hours and other conditions of employment		M	Prohibited w/ penalties
Minnesota [MINN. STAT. § 179A.01]	Grants public employees certain rights to organize and choose freely their representatives; requires public employers to meet and negotiate with public employees in an appropriate bargaining unit; and provides that the result of bargaining be in written agreements	All public employees, excluding part-time, temporary, confidential and supervisory employees	Grievance procedures and terms and conditions of employment		M; VA	Permitted w/ conditions

Key: M = Mediation F = Fact-finding VA = Voluntary arbitration MA = Mandatory arbitration						
STATE	STATE POLICY	COVERAGE/EXCLUSIONS	SCOPE OF BARGAINING	RIGHT-TO-WORK	BARGAINING IMPASSE PROCEDURES	STRIKES
Mississippi [MISS. CODE ANN. § 71-1-47; 37-9-75]	No state collective bargaining law			X		Prohibited
Missouri [MO. REV. STAT. § 105.510]	Although the state has a collective bargaining law, all teachers are excluded from it					Prohibited
Montana [MONT. CODE ANN. § 39-31-101]	Grants public employees the right of self-organization, to form, join or assist any labor organization, and to bargain collectively through representatives of their own choosing	All public employees, excluding managerial and confidential employees or school district clerks and school administrators	Wages, hours, fringe benefits and other conditions of employment		M; F; VA	
Nebraska [NEB. REV. STAT. § 48-816; 48-217]	Requires good faith bargaining concerning the terms and conditions of employment of employees by any public employer	Certificated and instructional employees	Wages, hours and other terms and conditions of employment	X	M; F	Prohibited
Nevada [NEV. REV. STAT. ANN. § 288.150; 613.250]	Requires every local government employer to negotiate in good faith through one or more representatives of its own choosing concerning the mandatory subjects of bargaining	All local government employees including employees of school districts	Salary or wage rates, sick leave, vacation leave, holidays, insurance benefits, total hours of work required each workday or workweek, total number of days' work required of an employee in a work year, discharge and disciplinary procedures, and teacher prep time, among others	X	M; VA	Prohibited w/ penalties

Key: M = Mediation F = Fact-finding VA = Voluntary arbitration MA = Mandatory arbitration						
STATE	STATE POLICY	COVERAGE/EXCLUSIONS	SCOPE OF BARGAINING	RIGHT-TO-WORK	BARGAINING IMPASSE PROCEDURES	STRIKES
New Hampshire [N.H. REV. STAT. ANN. §273-A:1]	Obligates the public employer and the employee organization certified by the board as the exclusive representative of the bargaining unit to negotiate in good faith	All public employees excluding confidential or temporary employees	Wages, hours and other conditions of employment other		M; F	Prohibited
New Jersey [N.J. STAT. ANN. § 34:13A-1]	Grants public employees the right to freely and without fear of penalty or reprisal, form, join and assist any employee organization and the majority representative and designated representatives of the public employer are required to meet at reasonable times and negotiate in good faith	All public employees excluding managerial or confidential employees	Grievances, disciplinary disputes, and terms and conditions of employment		M; F; VA	
New Mexico [N.M. STAT. ANN. § 10-7E-2]	Guarantees public employees the right to organize and bargain collectively with their employers	Public employees, other than management employees and confidential employees	Wages, hours, and other terms and conditions of employment		M; VA	Prohibited w/ penalties
New York [N.Y. CIV. SERV. LAW § 200]	Grants public employees the right of organization and representation, requiring the state, local governments and other political subdivisions to negotiate with, and enter into written agreements with employee organizations representing public employees which have been certified or recognized	All public employees	Wages, hours, and other terms and conditions of employment and grievance procedures		M; F; VA	Prohibited w/ penalties

Key: M = Mediation F = Fact-finding VA = Voluntary arbitration MA = Mandatory arbitration						
STATE	STATE POLICY	COVERAGE/EXCLUSIONS	SCOPE OF BARGAINING	RIGHT-TO-WORK	BARGAINING IMPASSE PROCEDURES	STRIKES
North Carolina [N.C. GEN. STAT. § 95-78]	Collective bargaining is explicitly prohibited			X		Prohibited w/ penalties
North Dakota [N.D. CENT. CODE § 15.1-16-07; 34-01-14]	Grants an individual employed as a teacher or administrator the right to form, join and participate in the activities of a representative organization of the individual's choosing for the purpose of representation on matters of employer-employee relations	Teachers and administrators	Terms and conditions of employment and employer-employee relations, including salary and working hours	X	M; F	Prohibited w/ penalties
Ohio [OHIO REV. CODE ANN. 4117.01]	Grants public employees the right to form, join, assist or participate in, or refrain from forming, joining, assisting or participating in any employee organization of their own choosing and to bargain collectively with their public employers	All public employees, including teachers, while excluding confidential, managerial, supervisory, part-time employees, employees of Cleveland BOE-sponsored charter schools, among others	Wages, hours, terms, and other conditions of employment, and the continuation, modification or deletion of an existing provision of a collective bargaining agreement		M; F; VA	Permitted
Oklahoma [OKLA. STAT. tit. 70 § 509.1; 23 § 1A]	Strengthens methods of administering employer-employee relations through the establishment of an orderly process of communications between school employees and the school district	Public school employees, excluding some managerial and confidential employees	Wages, hours, fringe benefits, and other terms and conditions of employment	X	F	Prohibited w/ penalties

Key: M = Mediation F = Fact-finding VA = Voluntary arbitration MA = Mandatory arbitration						
STATE	STATE POLICY	COVERAGE/EXCLUSIONS	SCOPE OF BARGAINING	RIGHT-TO-WORK	BARGAINING IMPASSE PROCEDURES	STRIKES
Oregon [OR. REV. STAT. § 243.650]	Obligate public employers, public employees and their representatives to enter into collective negotiations with a willingness to resolve grievances and disputes relating to employment relations and to enter into written and signed contracts evidencing agreements resulting from such negotiations	Academically licensed school employees	Direct or indirect monetary benefits, hours, vacations, sick leave, grievance procedures and other conditions of employment		M; F; VA	Permitted
Pennsylvania [P.A. STAT. ANN. tit. 42 § 101]	Grants to public employees the right to organize and choose freely their representatives and requires public employers to negotiate and bargain with employee organizations representing public employees and to enter into written agreements evidencing the result of such bargaining	All public school employees, except management-level employees and confidential employees	Wages, hours, and terms and conditions of employment		M; F; VA	Permitted w/ conditions
Rhode Island [R.I. GEN. LAWS § 28-9.3-1]	Grants certified public school teachers the right to organize, to be represented, to negotiate professionally and to bargain on a collective basis with school committees	All certified teachers, while excluding superintendents, assistant superintendents, principals and assistant principals, and other supervisors above the rank of assistant principal	Hours, salary, working conditions, and all other terms and conditions of professional employment		M; VA	Prohibited

Key: M = Mediation F = Fact-finding VA = Voluntary arbitration MA = Mandatory arbitration						
STATE	STATE POLICY	COVERAGE/EXCLUSIONS	SCOPE OF BARGAINING	RIGHT-TO-WORK	BARGAINING IMPASSE PROCEDURES	STRIKES
South Carolina [S.C. CODE ANN. § 41-7-10]	No state collective bargaining law			X		
South Dakota [S.D. CODIFIED LAWS § 3-18-1]	Grants public employees the right to form and join labor or employee organizations, and have the right to designate representatives for the purpose of meeting and negotiating with the governmental agency or representatives designated by it	All public employees including teachers and elementary and middle school administrators but excluding other administrators, temporary employees and students among others	Grievance procedures and conditions of employment	X	M	Prohibited
Tennessee [TENN. CODE ANN. § 49-5-605; 50-1-201]	Recognizes the interests of individual employees in their relations with boards of education and recognizes certain rights, but not obligations, of professional employees to form, join and assist professional employees' organizations; such rights and responsibilities include meeting, consulting and conferencing with boards of education in order to discuss matters relating to specific terms and conditions of professional service	Any public school employee excluding management or retired teachers	Salaries or wages, grievance procedures, insurance, working conditions, leave, payroll deductions and fringe benefits (not including pensions or retirement programs), leave and payroll deductions	X		Prohibited w/ penalties

Key: M = Mediation F = Fact-finding VA = Voluntary arbitration MA = Mandatory arbitration						
STATE	STATE POLICY	COVERAGE/EXCLUSIONS	SCOPE OF BARGAINING	RIGHT-TO-WORK	BARGAINING IMPASSE PROCEDURES	STRIKES
Texas [TEX. LAB. CODE ANN. § 617.003]	Collective bargaining is explicitly prohibited			X		Prohibited w/ penalties
Utah [UTAH CODE ANN. § 34-34-8]	No state collective bargaining law			X		
Vermont [VT. STAT. ANN. tit. § 16-57-1991]	Grants teachers and administrators the right to select organizations to represent them on their negotiations council in collective negotiations with the school board negotiations council	All teachers and school administrators, excluding superintendents and assistant superintendents	Salary, related economic conditions of employment, an agency service fee, procedures for processing complaints and grievances relating to employment, and any mutually agreed upon matters not in conflict with the statutes		M; F; VA	Permitted
Virginia [VA. CODE ANN. § 40.1-60]	Collective bargaining is explicitly prohibited			X		Prohibited w/ penalties
Washington [WASH. REV. CODE § 41-59-060]	Grants employees the right to self-organization; to form, join or assist employee organizations; and to bargain collectively through representatives of their own choosing	All educational employees, excluding supervisory, administrative or confidential employees	Wages, hours, and terms and conditions of employment		M; F; VA	
West Virginia	No state collective bargaining law					

Key: M = Mediation F = Fact-finding VA = Voluntary arbitration MA = Mandatory arbitration						
STATE	STATE POLICY	COVERAGE/EXCLUSIONS	SCOPE OF BARGAINING	RIGHT-TO-WORK	BARGAINING IMPASSE PROCEDURES	STRIKES
Wisconsin [WIS. STAT. § 111.70]	Grants municipal employees the right of self-organization, and the right to form, join or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in lawful, concerted activities for the purpose of collective bargaining or other mutual aid or protection	All municipal employees, excluding independent contractors, supervisors, confidential, managerial or executive employees	Total base wages		M	Prohibited w/ penalties
Wyoming [WYO. STAT. ANN. § 27-7-109]	No state collective bargaining law			X		

Emily Workman, researcher, with the ECS Information Clearinghouse, updated this report. She can be reached at eworkman@ecs.org.

This ECS StateNote was originally compiled by Carl Krueger, researcher, ECS National Center on Governing America's Schools, with financial support from Joyce Foundation.

© 2011 by the Education Commission of the States (ECS). All rights reserved.

ECS is the only nationwide, nonpartisan interstate compact devoted to education.

ECS encourages its readers to share our information with others. To request permission to reprint or excerpt some of our material, please contact the ECS Information Clearinghouse at 303.299.3675 or e-mail ecs@ecs.org.

Equipping Education Leaders, Advancing Ideas