

YOUR LEGAL RIGHTS & MNEA LEGAL SERVICES

Your Rights as a Member of an Association

1. Your Right to Join an Association

If you are an education support professional, you have the right, under both the Missouri and the United States Constitutions to join an association. You cannot be fired from your job for belonging to an association. Teachers only have the constitutional protection.

2. Your Right to Collective Bargaining

The Missouri Constitution guarantees employees “the right to organize and to bargain collectively through representatives of their own choosing.” On May 29, 2007 the Missouri Supreme Court ruled that this right applies to public employees as well as private employees.

Under Missouri statutes, you have the right to elect an exclusive bargaining representative. The law requires representatives of the School Board to meet with your bargaining representative to discuss your salaries and working conditions.

Any agreement reached through this process which is reduced to writing, voted upon and approved by the Board of Education and the Association is a binding contract.

Public Employee Collective Bargaining

Article I, Section 29 of the Missouri Constitution says “employees shall have the right to bargain collectively through representatives of their own choosing.” On May 29, 2007, the Missouri Supreme Court decided that this provision of the Missouri Constitution applies to public employees. This decision overturned a 60-year-old Missouri Supreme Court case that interpreted that language as excluding public employees (such as employees of a school district). Therefore, public employees in Missouri now have the right to choose an exclusive bargaining representative and to engage in collective bargaining.

Although all employees have the constitutional right to collective bargaining, there is no statute that spells out the framework for exercising that constitutional right for teachers. Other public employees, such as support staff of a school district, are covered by Missouri’s Public Sector Labor Law, §105.500, et.seq. RSMo. This statute provides the process by which an employee group can choose an exclusive bargaining representative and provides a directive to the employer groups regarding meeting and conferring with the representative regarding terms and conditions of employment. Teachers, not covered by this statute, must come to agreement with their districts regarding the process for recognizing an exclusive bargaining representative and the process by which bargaining will occur.

When a school district and an exclusive bargaining representative enter into an agreement regarding terms and conditions of employment, that agreement is binding until its expiration date. Therefore, once an exclusive bargaining representative has been chosen by the employees, and the representative has negotiated a collective bargaining agreement with the district, both sides must honor the agreement. The district cannot make a decision to change the terms and conditions of the agreement without negotiating with the exclusive representative.

There are certain concepts inherent in the right to collective bargaining that are separate from negotiating a collective bargaining agreement. One such concept is the right to have a representative present in a disciplinary meeting. If you are called into a disciplinary meeting with an administrator, you should request an association representative be present. If the administrator denies that right and will not postpone the meeting, follow the adage “obey now and grieve later.” Attend the meeting, take notes, do not admit to anything, and do not sign anything. When the meeting is over, contact your UniServ director immediately.

Legal Services of Missouri NEA

Unified Legal Services Program

This is Missouri NEA's most active and highest cost program, paying for the defense of members' rights and for the cost of filing suit on behalf of members, usually against a school district. To use this benefit, members must first contact their UniServ director, and prior evaluation and approval must occur before any attorney can be contacted.

Educators' Employment Liability

If you are sued in the course of your educational employment activities in civil court, this policy pays for up to \$4 million dollars in damages and legal fees for each instance. The policy also provides up to \$35,000 in reimbursement for attorney fees and costs for defending criminal charges arising out of job-related incidents.

Attorney Referral Program for Members and Immediate Family

NEA's Attorney Referral Program provides members with legal advice on personal matters. Each eligible member is entitled to two 30-minute consultation sessions each year at no charge. And if you need additional legal help, you can employ these attorneys at a 30% discount for five core areas: wills and estates, real estate, domestic relations, consumer protection and traffic violations.

Association Professional Liability for Affiliates

Missouri NEA provides a liability policy that covers any actual or alleged breach of duty, neglect, error, act or omission by an officer, staff or members of the association while performing work specifically on behalf of the association. This policy does not cover physical injury.

Non-ULSP Services for Members

Missouri NEA provides some limited legal advice in areas that are not covered by the ULSP program, such as advice when a member is called as a witness in a custody case. This advice must be accessed through the UniServ director.

Fidelity Bond for Association Staff and Local Leaders

Missouri NEA provides a general fidelity bond to cover loss due to officers' or employees' dishonest acts. This bond covers both the state association and all local associations.

Hints for Local Association Leaders

In the first few minutes or hours following an incident that poses a threatening outcome for a member, the Association Representative should be prepared to act.

The first state of an incident is often filled with trauma, which may hinder clear thinking. Therefore, avoid dramatic, emotional responses to the incident. Collect yourself and take the time to get help from an MNEA representative and respond calmly.

Warn Members . . .

- Not to make spontaneous responses to charges brought against them
- If at all possible, not to appear at any accusatory hearing (including a meeting with an administrator) unless accompanied by an Association representative, local president, and/or UniServ director (Do not refuse to meet because this could lead to a charge of insubordination.)
- Not to attempt to defend themselves alone
- Not to accept "an opportunity to resign"
- Not to agree to any proposals, either orally or in writing
- Not to submit any written statement to administrators or to the school board
- Not to refuse to carry out an order of an administrator, even though doing so would violate the policy or contract (The UniServ director will advise the member concerning exceptions to this rule.)

Advise Affected Members . . .

- To record in writing everything that happened immediately following the incident (This includes a narrative noting the time, date, location, names of involved persons, witnesses, and actual words spoken.)
- To get advice early from the local association leaders or the UniServ office (Don't "wait to see what happens.")
- To keep copies of all correspondence and papers relating to the situation.

Many a career has been damaged as the result of a member's failure to pay early heed to one of these cautions.