

# **The Right to Strike Under Vermont's Labor Relations Statutes**

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# Vermont's Collective Bargaining Laws

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1. SLRA – State Labor Relations Act (1967)
2. SELRA – State Employees Labor Relations Act (1969)
3. LTRA – Labor Relations for Teachers and Administrators Act (1969)
4. MERA – Municipal Employee Relations Act (1973)
5. JELRA - Judiciary Employees Labor Relations Act (JELRA) (1988)
6. Independent Direct Support Providers Labor Relations Act (2013)
7. Early Care and Education Providers Labor Relations Act (2014)



# National Labor Relations Act of 1935 (NLRA)

- Applies to most private sector employers and employees doing business in interstate commerce
  - Does NOT apply to agricultural laborers, domestic workers, or independent contractors
  - Does NOT apply to state and local public sector workers
  - NLRA recognizes the right to strike as fundamental but there are limitations and qualifications placed on that right
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# General Information on strikes

- Lawfulness of strikes – depends on:
    - Object/purpose of the strike
    - Timing of the strike
    - Conduct of the strikers
  - 2 classes of lawful strikes
    - Unfair labor practice strikers
    - Economic strikers
  - Under the NLRA, there is a prohibition on striking or picketing a health care institution without at least 10 days notice
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# No right to strike and no right to make unilateral changes

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**No right to strike by workers and no contract imposition by management:**

1. SELRA – State Employees Labor Relations Act
2. JELRA - Judiciary Employees Labor Relations Act
3. Independent Direct Support Providers Labor Relations Act
4. Early Care and Education Providers Labor Relations Act

**Dispute Resolution Procedure following declaration of impasse:**

Mediation

Fact-finding

Selection of last best offer by VLRB or arbitrator

# Statutory definition of “strike”

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Strike is defined as “conduct by an employee or employee organization or its agents that produces, induces, or encourages a work stoppage, slowdown, or withholding of services; such conduct includes recognizing a picket line or other conduct that interferes with or impedes the orderly functions and services of a municipal employer”

# Municipal Employee Relations Act

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## **STATUTORY DISPUTE RESOLUTION PROCESS**

- Mediation – upon request of either party
- Factfinding – upon request of either party
- Arbitration – parties can voluntarily submit a dispute to binding arbitration or a municipality, by referendum, can adopt binding arbitration
- A limited right to strike is permitted IF arbitration is not invoked

# Municipal Employee Relations Act

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## STATUTORY RESTRICTIONS ON STRIKES

- **Not permitted:**
  - Within 30 days after delivery of a factfinder's report (cooling off period)
  - When parties have voluntarily submitted a dispute to final and binding arbitration
  - After a decision or award has been issued by an arbitrator
  - If it will “endanger the health, safety, or welfare of the public” – employer may seek an injunction or other relief from court



# Labor Relations for Teachers and Administrators Act

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## STATUTORY DISPUTE RESOLUTION PROCESS

- Mediation – parties may jointly agree to mediate or bypass
- Factfinding – upon request of either party
  - Factfinding committee
  - Informal hearings, testimony, present evidence
  - information provided to committee upon request
  - Issues non-binding written report recommending a reasonable basis for settlement (within 30 days of appointment)
  - Report made public if issues in dispute not resolved within 10 days

# Labor Relations for Teachers and Administrators Act

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- VLRB has held that teachers cannot strike and a school board cannot take unilateral action on matters in dispute until **30 days after receipt of the fact finder's report** (cooling off period)
- 16 VSA § 2008 – Finality of Decisions

“All decisions of the school board regarding *matters in dispute* shall, *after full compliance with this chapter*, be final.”

# Labor Relations for Teachers and Administrators Act

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## STRIKE

- An economic strike within 8 days of receipt of a fact finder's report constituted an unfair labor practice [VLRB, 1979]
- A court may issue a restraining order or injunction against a strike if “the commencement or continuance of the action poses *a clear and present danger to a sound program of school education* which in the light of all relevant evidence it is in the best public interest to prevent.” 16 VSA § 2010

# Labor Relations for Teachers and Administrators Act

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## LIMITATION ON RIGHT TO STRIKE

- Not before 30 days have passed since the issuance of the factfinder's report
- Prohibited if it occurs after both parties have voluntarily agreed to submit dispute to final and binding arbitration
- Prohibited after a decision or award has been issued by the arbitrator

# Labor Relations for Teachers and Administrators Act

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## **NEGOTIATED BINDING INTEREST ARBITRATION**

- Only if both parties agree in writing; once made agreement cannot be revoked
- Parties can mutually agree to arbitrate anytime after impasse is declared
- Either party may request, in writing, to the other
- Parties mutually agree on arbitrator's jurisdiction
- Arbitrator's decision is final and binding on the parties
- Parties share equally the fee and mutually incurred costs

Any questions?



# Resources

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National Labor Relations Act - <https://www.nlr.gov/guidance/key-reference-materials/national-labor-relations-act>

State Labor Relations Act - <https://legislature.vermont.gov/statutes/chapter/21/019>

State Employees Labor Relations Act - <https://legislature.vermont.gov/statutes/chapter/03/027>

Labor Relations for Teachers and Administrators - <https://legislature.vermont.gov/statutes/chapter/16/057>

Municipal Employee Relations Act - <https://legislature.vermont.gov/statutes/chapter/21/022>

Judiciary Employees Labor Relations Act - <https://legislature.vermont.gov/statutes/chapter/03/028>

Independent Direct Support Providers Labor Relations Act <https://legislature.vermont.gov/statutes/chapter/21/020>

Early Care and Education Providers Labor Relations Act - <https://legislature.vermont.gov/statutes/chapter/33/036>

Vermont Labor Relations Board - <https://vlrb.vermont.gov/>