

**BOARD OF HIGHER EDUCATION
REQUEST FOR BOARD ACTION**

NO.: BHE 24-23

BOARD DATE: December 12, 2022

DELEGATION OF AUTHORITY FOR COLLECTIVE BARGAINING

MOVED: The Board of Higher Education (the Board), as the employer of record authorized pursuant to Chapter 150E of the Massachusetts General Laws to negotiate collective bargaining agreements with certain employees of the State Universities and Community Colleges, hereby extends BHE Motion 20-15 and delegates its authority to negotiate such collective bargaining agreements to the Commissioner, consistent with the following procedures:

1. The Commissioner is authorized to delegate to the State University and Community College Presidents and their designees authority to negotiate a tentative agreement, with the participation of Commissioner's representative.
2. In negotiating a tentative agreement, the Presidents, their representatives, and the Department's representative shall ensure that the agreement is within applicable economic parameters established by the Executive Office of Administration and Finance (ANF), and with technical assistance from the Department, the Office of Employee Relations, and ANF as needed to confirm that such agreement is within applicable economic parameters.
3. When a tentative agreement is reached, the Commissioner shall brief the Chairman of the Board of Higher Education, the Secretary of the Executive Office of Education, and the Office of Employee Relations on the terms of the Agreement.
4. The Agreement shall be submitted to the union for ratification subsequent to confirmation that the Agreement is within economic parameters.
5. The Agreement is signed by Commissioner.
6. In accordance with Section 7c of Chapter 150e of the Massachusetts General Laws, and within thirty days after the date on which the collective bargaining agreement is executed by the parties, the agreement shall be submitted to the Governor with a request for an appropriation necessary to fund such incremental cost items

contained therein as are required to be funded in the then current fiscal year.

VOTED: Motion adopted by the BHE on 12/12/2023.

Authority: M.G.L. c. 150E, §§ 1 and 7; M.G.L. c. 15A, § 6 and 9; BHE 20-15 (May 5, 2020)

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Background

The Board of Higher Education's (the Board) enabling legislation, authorizes the Board to delegate "its authority or any portion thereof to the Commissioner whenever in its judgment such delegation may be necessary or desirable." M.G.L. c. 15A, § 6. Within the context of labor relations, state law allows the Board even broader delegation authority. Specifically, the Commonwealth's labor relations law defines the "employer" for public higher education as follows:

In the case of employees of the system of public institutions of higher education, the employer shall mean the board of higher education or any individual who is designated to represent it and act in its interest in dealing with employees, except that the employer of employees of the University of Massachusetts shall be the board of trustees of the University or any individual who is designated to represent it and act in its interest in dealing with employees.

M.G.L. c. 150E, § 1. Accordingly, while the Board of Higher Education (the Board) is the employer for employees of the state and community college system, the Board may designate any individual to represent it and act in its interest in dealing with those employees.

As the Department entered into a new three year bargaining cycle in calendar year 2020, the Board passed a motion intended to clarify the delegation of authority for collective bargaining and to specify the terms of such delegation in accordance with recent historical practice and the provisions of Massachusetts General Law Chapter 150E. *BHE Motion 20-15 (May 5, 2020)*. By its terms, the Board's prior motion was initially set for three years, and is set to expire on December 31, 2023. Rather than extending the motion to a date certain which could inadvertently result in the expiration of the motion in the middle of a bargaining cycle, staff recommends extending the term of the motion indefinitely, with the understanding that the Commissioner will report back to the Board and/ or a Committee of the Board periodically on the status of collective bargaining negotiations.