



FIGHTING FOR THE SCHOOLS
OUR COMMUNITIES DESERVE

Membership Information for
**EDUCATION SUPPORT
PROFESSIONALS**

2020–2021



www.massteacher.org

Welcome!

In joining the Massachusetts Teachers Association, you are becoming a part of a community of education workers with a deep commitment to the well-being of our students and our Commonwealth — and to the vital role of unions in supporting public education and workplace democracy.

The MTA is here to work with you now and through your retirement years. Here are some of the ways we work together:

Contract Bargaining: Students' learning conditions are your working conditions. Contract bargaining is where we fight for both. Over the past year we have worked extensively with our ESP members to discuss workplace issues and concerns. One outcome is the MTA ESP Bill of Rights, which outlines specific bargaining goals to greatly improve the work lives and dignity of our ESPs.

Political Action: As public education workers, we have a responsibility to build our collective power to defend public education, workplace rights and the social and economic well-being of our communities. Now more than ever, we need to protect funding for our public schools and universities. We must also demand that we have access to paid family and medical leave laws, as private-sector workers do, and that we be guaranteed a true living wage.

Professional Development: You will discover that you need to continually update your own skills. The MTA offers professional learning opportunities and holds a statewide ESP Conference each spring. In addition, the MTA offers recorded webinars, live online learning opportunities, and regional workshops tailored to ESPs, whether in preK-12 classrooms or on higher education campuses.

Contact your local president to learn more about how you can be active in the MTA. In addition, please visit our website, www.massteacher.org, the ESP section of our website, www.massteacher.org/esp, and our Facebook page, facebook.com/massteacher.

Become an active member of the MTA family!

Sincerely,



Merrie Najimy
President

Massachusetts Teachers Association



Max Page
Vice President

Massachusetts Teachers Association

BUILDING OUR UNION POWER

In the months leading up to the U.S. Supreme Court's anti-union *Janus* decision in 2018, the MTA initiated the *All In* campaign to proactively respond to the ongoing attack on the collective power of working people and their organizations. The success of the *All In* campaign demonstrates that our 117,000 members see union membership as essential to their professional respect and to their quality of life.

We are demonstrating every day that when we fight, we win!

Last fall, MTA members, leaders and staff broadened the contours of *All In* with the MTA Blueprint Project, which will help us continue to grow our collective power even more.

Five strategic priorities are central:

#1: Connect Members to the Life of the Union

#2: Cultivate and Support Leadership at All Levels of the Union

#3: Maximize Our Bargaining Power

#4: Advance Policy Solutions and Campaigns

#5: Lead on Economic, Social and Racial Justice

All members – including those new to the MTA – are strongly encouraged to be active in the union. For information, please consult your local president or field representative and visit massteacher.org/allin.

Working together, we can make a difference and help shape a bright future for our students, our members and public education.



Visit the MTA at:

» massteacher.org

» massteacher.org/esp

» twitter.com/massteacher

» facebook.com/massteacher

» youtube.com/massteacher

» instagram.com/massteacheresp

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Reasons to Join Your Association

As you begin the year in education, one of the actions you should take right away is to join your local association, the Massachusetts Teachers Association and the National Education Association.

Here are some of the reasons:

Local Support. Your local association represents you and your interests at the school, district and campus levels. It advocates for you at the state level, as well. For example, it bargains your contract and represents members who have grievances with management. It is your first line of defense.

If you have a problem or a question, this is where you begin. A strong and viable local association is essential. We encourage you to get involved in your local association. In addition, we encourage you to get involved in the MTA. Please consult your local leaders about participating in the MTA Annual Meeting, which sets the association's course each year.

Networking. Through the MTA's website, www.massteacher.org, and NEA's website, www.nea.org, you will be connected to other school employees from across the state and nation. Information specifically for ESPs is at www.massteacher.org/esp.

Information. The MTA is your best source of accurate, timely information. It keeps on top of all current laws, regulations and policies about education. Information is as close as a toll-free telephone call for any member (800.392.6175 within Massachusetts). Information is also provided on MTA's website and is updated on a regular basis.

Legal Assistance. MTA members receive legal assistance on employment-related matters in accordance with MTA's Legal Services Policy. MTA's full-time attorneys argue hundreds of cases each year on behalf of individual members and local associations.

Local UniServ. Each local has an MTA field (UniServ) representative to assist the local leadership and its members on any issue dealing with employment. Any time you have a question about your employment rights or benefits, ask your local president, who can contact your UniServ field representative for assistance. If your local president is unavailable, you may contact your UniServ representative directly. Contact information for MTA's regional offices is printed at the end of this guide.

Discounts. Your MTA membership comes with more than 50 benefit programs and services offered through MTA Benefits. MTAB has programs to meet most of your everyday needs, from debt management and financial planning assistance to auto insurance and classroom supplies. You'll be amazed at how quickly your savings add up when you take advantage of your benefits. In addition, MTAB's extensive discount programs enable you to stretch your hard-earned dollars. Visit www.mtabenefits.com today.

Liability Insurance. All MTA members are protected by up to \$1,000,000 in coverage if they are sued for liability arising out of educational employment activities.

Lobbying. The 117,000-member MTA is recognized as the most effective voice on Beacon Hill for employees of the state's public schools, colleges and universities. The NEA represents the interests of 3 million members on Capitol Hill.

Professional Development. The association provides its members with training in all aspects of education: human and civil rights, political action, communications, negotiations, professional learning and almost any other area of concern to members. Our workshops are of consistently high quality and are offered at no cost or low cost to members. The MTA holds a conference just for ESPs each spring, and at the annual MTA Summer Conference there are numerous workshops designed specifically for ESPs. Please consult your local leaders for information.

Public Relations. We work continuously to enhance the image of public education and those who work in it through an aggressive public relations campaign throughout the state. Public relations assistance is also provided to local associations upon request. We are advocates for public education in all media.

Publications. All association members receive the award-winning *MTA Today* with the latest information about education developments, news of interest and feature stories. The MTA also communicates individually with its members through direct mail concerning issues such as privatization, political action, budget crises, collective bargaining and education-related legislation.

Representation. Wherever statewide decisions are being made—through a legislative committee, the state Board of Elementary and Secondary Education, the state Board of Higher Education or an educational coalition—and whenever decisions about school employees and students are being made, MTA members are there representing educators' views.

Fair Labor Standards Act

Education Support Professionals are covered by the federal Fair Labor Standards Act, which sets the federal minimum wage, overtime pay and other workplace standards for school employees.

The FLSA mandates that an employee must be paid for the entire “workday” even if it extends beyond the scheduled duty day set by the employer. “Workday” is defined as the time between when the employee begins his or her principal activity and when he or she ceases such activity. For example, if you work time that is not part of your regular schedule, such as “bus duty,” you should still be paid for that time.

It is important to note that the FLSA sets the *floor* for workplace standards, not the *ceiling*. It is quite possible that your employer — through employment policies or a union contract — is providing more favorable standards, in which case the employer’s standards prevail.

In addition, covered employees under the FLSA are eligible for overtime pay at a rate of 1.5 times the regular rate of pay. Overtime pay is based on work performed beyond 40 hours a week. However, some union contracts base it on daily hours as well. Coverage for overtime purposes under the FLSA is not guaranteed; in fact, many school employees are not covered under the FLSA for overtime purposes, which means they are not eligible for those benefits.

To qualify for overtime pay, employees must pass a two-part test. The first part examines the type of work the employee performs as a primary function of her or his job duty. The second test reviews the salary amount an employee earns. Employees who perform qualifying job duties and who do not earn a salary above a specified amount will be eligible for overtime. Due to the complexity and specificity of these rules, it is best to consult your union representative to determine whether your job is the type for which overtime pay is mandated under the FLSA.

Protect Yourself: Make a Professional Papers File

You never know when something unforeseen could affect your position, salary, reputation or financial status. It is always a good idea to have a file of items related to your employment. You may be required to produce any or all of the documents listed below. Once a problem occurs, there usually is not enough time to search for all of your records.

Members are urged to keep an up-to-date “Professional Papers” file of documents related to employment. This information provides an organized record if a crisis arises. If a problem does arise, you should contact your local association president immediately. Check the items once they are complete.

- Your letter of employment
- Record of educational background, including certificates and licenses
- Records relating to retirement benefits
- Your salary schedule and yearly salary notice
- Any letters of praise or reprimand
- All evaluations
- Records of any job-related seminars, workshops or conferences you attend
- Brief accounts of conferences arising out of your employment
- Proof of your membership in your local association, MTA and NEA
- Job history
- Your employment contract and any supplemental contracts
- Sick leave records
- Copies of your work schedule, job description and assignments
- Any correspondence to or from the school administration
- Documentation of awards, honors or commendations you receive
- Record of any incidents that may increase liability, such as disciplinary actions, accidents, etc.
- Your local association’s negotiated contract

In addition to saving these papers, you may want to read and file your employer's personnel policies and any other general policies that have been issued. Many of these documents probably will be in your personnel file. You should review your personnel file on a regular basis.

Weingarten Rights: The Right to Representation

Weingarten rights, as established in a 1975 United States Supreme Court decision — *NLRB v. Weingarten, Inc.* — guarantee an employee the right to union representation during an investigatory interview when the worker so requests. The Massachusetts Department of Labor Relations has adopted the Weingarten rules for public employees covered by Massachusetts General Laws, Chapter 150E. These rights are based upon private- and public-sector collective bargaining laws.

Which situations give rise to Weingarten rights?

- > Weingarten rights arise when the employer is investigating an incident or an allegation and the employee being questioned has a reasonable expectation that the investigation may result in his or her own discipline.
- > An employee is entitled to union representation if the employer is investigating an employee's alleged misconduct or inadequate work performance and convenes a meeting to elicit facts or get the employee's "side of the story."
- > Or, the employer may be investigating a situation in which the "wrongdoer" is unknown. If an employee believes his or her participation in the investigation could lead to discipline, the employee is entitled to union representation.
- > Weingarten rights can arise at any stage of an investigation. The employer may not have gathered any facts yet, may have some facts but not yet know whether discipline is warranted, or may have enough facts to know that some form of discipline is likely. What matters is that as soon as the employer seeks to discuss the issues or allegations with an employee who reasonably thinks he or she could be disciplined as a result of the investigation, the employee is entitled to have a union representative.

Which situations DO NOT give rise to Weingarten rights?

- > The meeting or discussion is merely for the purpose of conveying work instructions, training or needed corrections.
- > The purpose of the meeting is simply to inform the employee about a disciplinary decision that has already been made and no information is sought from the employee.
- > The employer has clearly and overtly assured the employee prior to the interview that no discipline or adverse consequences will result from the interview.
- > The employee initiates the discussion after the employer has made it clear that the matter may have disciplinary consequences.

YOUR WEINGARTEN RIGHTS

An employee in a unionized workplace who is called into a meeting with his or her employer that may lead to disciplinary action is entitled to union representation upon request. Because the law does not specifically require a supervisor to inform employees of this right at or before such a meeting, the employee must state that he or she wants a union representative present. Once the request is made, the meeting must terminate until a representative is present. Faculty and staff cannot lawfully be disciplined for invoking this or any other union right.

For a Q&A on Weingarten rights, go to massteacher.org/weingarten.

Insurance: Protection Is Automatic with Your MTA/NEA Membership

The Educators Employment Liability Insurance Program gives you financial protection and expert legal representation in the event that you are faced with a lawsuit related to your employment. The program provides:

- > \$1,000,000 in liability insurance.
- > \$300,000 in liability insurance for civil rights claims.
- > Up to 35,000 reimbursement for attorney fees if you are charged in an employment-related criminal proceeding, if you are exonerated.
- > \$1,000 per bond in bail bond protection in the event you are jailed in connection with your employment.
- > \$500 for damages to your personal property when damages are caused by an assault in the course of your employment.

There is an exclusion in this liability protection for transportation employees. While driving a school vehicle, the transportation employee is covered by the school district's vehicle insurance policy, not by this coverage. However, the employee is covered by this policy when a school bus is stopped—for example, when students are entering or exiting the bus.

NEA Complimentary Life Insurance (Formerly Known as NEA DUES-TAB)

This free insurance is a guaranteed benefit to active members who are employed in the field of education. Your coverage is completely automatic and provides four levels of coverage. (1) Basic life insurance coverage up to \$1,000. The amount depends on the length of the member's continuous association membership. (2) Accidental death and dismemberment insurance coverage equal to five times the basic life insurance coverage, up to \$5,000. (3) A special benefit that pays \$50,000 for accidental death or dismemberment that occurs on the job or while acting on association business in the capacity of an association leader. (NEA Retired members are now also eligible to receive a \$50,000 benefit for covered events while acting on association business in the capacity of an association leader.) (4) A \$150,000 homicide benefit.

All you have to do is register the name of your beneficiary to enroll in the program. Call toll-free: 800.637.4636 or visit <http://www.neamb.com/insurance/nea-complimentary-life-insurance.htm>.

Grievance Processing Basics

1. What is a grievance?

The exact definition of a grievance is set out in the grievance procedure of your collective bargaining agreement (contract). Only those matters that are contained within this definition constitute a grievance. Most commonly, a grievance is defined as a violation, misinterpretation or misapplication of the collective bargaining agreement. It is important to review the grievance definition before filing a grievance.

2. Who can file a grievance?

The collective bargaining agreement generally defines who can file a grievance. Typically, a grievant is defined as an employee, a group of employees or the local association. A grievance filed on behalf of a group is normally called a class action grievance.

3. Why grieve?

Filing a grievance allows an employee or the local association to address problems affecting the work environment. The local association has a strong interest in enforcing the negotiated terms of the contract and does so through the grievance process.

4. When do you file a grievance?

Timelines for filing a grievance are set forth in the collective bargaining agreement and must be strictly followed. Often there is only a short time in which to investigate and file the grievance. Make sure you contact your local association grievance officer in a timely manner to see if you should file a grievance to protect your rights. Failure to file a grievance within the contract's time limits can result in the claim being lost as "untimely filed." You can always withdraw a grievance if new information is learned.

5. How do you file a grievance?

Timeliness is of the essence. First of all, do not "go it alone." Contact your local association president or grievance officer. Check the grievance procedure in the contract to determine who gets the grievance and when.

6. What are the grievance steps?

A grievance procedure usually contains steps or levels at which grievances are processed. Examples of steps in a public school are: immediate supervisor or principal, superintendent, school committee and arbitration. In a higher

education institution, the steps may be supervisor, intermediate supervisor, campus chief executive officer or designee, president or designee and arbitration.

7. If it is not a grievance, what are the alternatives?

If it is determined that there is no grievance, a remedy may be found in one or more of the following ways:

- > Unfair labor practice.
- > Alternative dispute resolution.
- > Civil action.
- > Equal Employment Opportunity Commission, Department of Labor and other agencies.
- > Bargaining (either mid-term or wait for successor bargaining).
- > Organizational activities (community action, political action, lobbying school board members, etc.).

8. What information is needed for a grievance?

Remember to review the entire grievance procedure and follow it. Check the time limits and use the appropriate form(s). If there is no form, consult with your local association president or grievance officer regarding filing procedures.

The actual grievance should include the following basic information:

1. Date of the incident.
2. Date the grievance is filed.
3. Sections of the contract violated.
4. Description of the complaint.
5. Remedy requested.

9. Do all grievances result in arbitration?

No. The grievance procedure is an extension of the collective bargaining process. Many grievances can be “worked out”—or bargained. A grievance reflects a problem. Problems can often be resolved. What is the nature of the problem? Is it a contract dispute? Is it a personality conflict? Is it a power struggle? Does the organization need to justify its existence or send a message to the employer? Is the grievance winnable? Is it a “frivolous” grievance? Is it really necessary to take this specific grievance to arbitration?

Material Safety Data Sheets

The Massachusetts Right-to-Know law applies to public-sector employees in Massachusetts, including school and higher education employees. The Right-to-Know law is similar to the federal Hazard Communication Standard administered by the Occupational Safety and Health Administration (OSHA), which regulates private-sector workplaces. The Right-to-Know law requires that information on chemical hazards be given to employees who may be exposed to toxic or hazardous chemicals in the workplace. The law requires employers to label containers of chemicals, provide written instructions or training to employees on chemical hazards and safe work procedures and give employees access to Material Safety Data Sheets (MSDSs).

MSDSs are the primary instruments for transmitting detailed information about any and all chemicals used in the work environment. Many Education Support Professionals will work with or handle chemicals in the course of their employment. MSDSs will be sent to the employer by the company producing the chemical. These sheets should be sent with the first shipment of any chemical and with the first shipment after an MSDS has been updated. These MSDSs must be kept on file and be readily available at all regular work sites and storage facilities.

Many employers are remiss when it comes to providing training and making this information readily available for viewing by employees. However, this should not prevent you from asking your supervisor to show you a copy of all MSDSs. Carefully look through all of those sheets and determine which chemicals are used by you or other employees in your work area. Ask for a copy of all those data sheets.

If a student is exposed to a chemical for which you are responsible or that is used in your work area, and that student suffers an adverse reaction, you are legally immune from liability under state law for any negligent or wrongful acts, as long as you were working within the scope of your duties and pursuant to school directives, unless your conduct is deemed grossly negligent or reckless.

YOUR RIGHT TO A SAFE WORKPLACE

As an Education Support Professional, you have the right to a safe and healthy workplace. In the Commonwealth, all public-sector employers are required to provide employees with *at least* the level of protection provided under the federal *Occupational Safety and Health Act of 1970*. On March 9, 2018, Governor Charlie Baker signed a bill amending M.G.L. Chapter 149, Section 6 ½, to clarify employee safety requirements in public-sector workplaces. More information can be found at <https://www.mass.gov/news/osha-safety-for-public-sector-highlights-of-updated-law-mgl-c149-ss6-12>.

An MSDS often contains at least nine sections of very important information that you should know:

1. **Name of Product** including the name of the chemical and/or trade name.
2. **Hazardous Ingredients** including the names of all the chemicals that can be harmful.
3. **Physical and Chemical Characteristics** including appearance, odor, boiling point, solubility in water, vapor pressure, etc.
4. **Fire and Explosion Hazard Data** including the temperature at which the product ignites (flashpoint), extinguishing media, special firefighting procedures and unusual fire and explosion hazards.
5. **Health Hazard Data** including symptoms of overexposure (skin rash, dizziness, headache, etc.) and emergency first aid procedures.
6. **Reactivity Data** including information about the stability of the chemical and how it reacts to heat and sunlight, conditions to avoid, other chemicals with which this chemical is incompatible, hazardous decomposition products, etc.
7. **Spill or Leak Procedures** including steps to be taken in case the material is released or spilled and waste-disposal method.
8. **Special Protection Information** including information about respiratory protection, ventilation required and personal protection items necessary for safe use (rubber gloves, respirator, eye protection and other protective equipment).
9. **Special Precautions** including precautions to be taken in handling and storing this chemical and any other precaution that the company producing the chemical believes the consumer should know.

In addition, the company that manufactured the chemical will often have information at the bottom of the MSDS regarding how to make contact with the company in an emergency medical situation. The chemical company will often include a cover letter reviewing information on how best to use this product. Take the time to ask for and to read all MSDSs for any chemicals for which you are responsible or that may be used in your work area.

MTA Offices and Service Centers

MTA Headquarters

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Holyoke Service Center

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Lynnfield Service Center

50 Salem Street
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Lynnfield, MA 01940
781.246.9779
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Metro Service Center

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Pittsfield Service Center

188 East Street
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413.499.0257
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Raynham Service Center

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Worcester Service Center

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