

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 920 Session of  
2017

INTRODUCED BY TALLMAN, SACCONI, BARRAR, HICKERNELL, RYAN,  
MILLARD AND ZIMMERMAN, MARCH 22, 2017

REFERRED TO COMMITTEE ON EDUCATION, MARCH 22, 2017

AN ACT

1 Amending the act of March 10, 1949 (P.L.30, No.14), entitled "An  
2 act relating to the public school system, including certain  
3 provisions applicable as well to private and parochial  
4 schools; amending, revising, consolidating and changing the  
5 laws relating thereto," deleting and replacing provisions  
6 relating to collective bargaining between public school  
7 employees and their public employers; setting forth public  
8 policy relating to public school employee strikes; providing  
9 for assessments and for duties of the Bureau of Mediation and  
10 the Pennsylvania Labor Relations Board; and imposing  
11 penalties.

12 The General Assembly of the Commonwealth of Pennsylvania  
13 hereby enacts as follows:

14 Section 1. Article XI-A heading, subdivision (a) heading,  
15 section 1101-A, subdivision (b) heading, sections 1111-A and  
16 1112-A, subdivision (c) heading, sections 1121-A, 1122-A,  
17 1123-A, 1124-A, 1125-A, 1126-A and 1127-A, subdivision (d)  
18 heading, sections 1131-A, 1132-A, subdivision (e) heading,  
19 section 1161-A, subdivision (g) heading and sections 1171-A and  
20 1172-A of the act of March 10, 1949 (P.L.30, No.14), known as  
21 the Public School Code of 1949, are repealed:

22 [ARTICLE XI-A.

1 COLLECTIVE BARGAINING

2 (a) General Provisions.

3 Section 1101-A. Definitions.--When used in this article, the  
4 following words and phrases shall have the following meanings:

5 "Board" shall mean the Pennsylvania Labor Relations Board.

6 "Employee" shall mean a public school employee who bargains  
7 collectively with a public school entity, but shall not include  
8 employees covered or presently subject to coverage under the act  
9 of June 1, 1937 (P.L.1168, No.294), known as the "Pennsylvania  
10 Labor Relations Act," or the National Labor Relations Act (61  
11 Stat. 152, 29 U.S.C. Ch. 7 Subch. 11). The term does not include  
12 any management-level employee of any other school district.

13 "Employee organization" shall mean a public school employee  
14 organization of any kind, or any agency or employee  
15 representation committee or plan in which membership is limited  
16 to public school employees, and which exists for the purpose, in  
17 whole or in part, of dealing with public school employers  
18 concerning grievances, public school employee-public school  
19 employer disputes, wages, rates of pay, hours of employment or  
20 conditions of work, but shall not include any organization which  
21 practices discrimination in membership because of race, color,  
22 creed, national origin or political affiliation.

23 "Employer" shall mean a public school entity, but shall not  
24 include employers covered or presently subject to coverage under  
25 the act of June 1, 1937 (P.L.1168, No.294), known as the  
26 "Pennsylvania Labor Relations Act," or the National Labor  
27 Relations Act (61 Stat. 152, 29 U.S.C. Ch. 7 Subch. 11).

28 "Impasse" shall mean the failure of an employer and an  
29 employee organization to reach an agreement in the course of  
30 negotiations.

1 "Lockout" shall mean the cessation of furnishing of work to  
2 employes or withholding work from employes for the purpose of  
3 inducing, influencing or coercing a change in the conditions or  
4 compensation or the rights, privileges or obligations of  
5 employment.

6 "Representative" shall mean an individual acting for  
7 employers or employes and shall include employe organizations.

8 "School entity" shall mean a public school district,  
9 intermediate unit or area vocational-technical school.

10 "Strike" shall mean concerted action in failing to report for  
11 duty, the wilful absence from one's position, the stoppage of  
12 work, slowdown or the abstinence, in whole or in part, from the  
13 full, faithful and proper performance of the duties of  
14 employment for the purpose of inducing, influencing or coercing  
15 a change in the conditions or compensation or the rights,  
16 privileges or obligations of employment. The employe  
17 organization having called a strike once and unilaterally  
18 returned to work may only call a lawful strike once more during  
19 the school year. A written notice of the intent to strike shall  
20 be delivered by the employe organization to the superintendent,  
21 executive director or the director no later than forty-eight  
22 (48) hours prior to the commencement of any strike, and no  
23 strike may occur sooner than forty-eight (48) hours following  
24 the last notification of intent to strike. Upon receipt of the  
25 notification of intent to strike, the superintendent, executive  
26 director or the director may cancel school for the effective  
27 date of the strike. A decision to cancel school may, however, be  
28 withdrawn by the superintendent, executive director or the  
29 director. Any subsequent change of intents to strike shall not  
30 affect the decision to cancel school on the day of the intended

1 strike. For the purposes of this article, the decision to cancel  
2 school on the day of the intended strike shall not be considered  
3 a lockout.

4 (b) Scope of Bargaining.

5 Section 1111-A. Mutual Obligation.--Collective bargaining is  
6 the performance of the mutual obligation of the employer or his  
7 representative and the representative of the employees to meet at  
8 reasonable times and confer in good faith with respect to wages,  
9 hours and other terms and conditions of employment or the  
10 negotiation of an agreement or any question arising thereunder  
11 and the execution of a written contract incorporating any  
12 agreement reached, but such obligation does not compel either  
13 party to agree to a proposal or require the making of a  
14 concession.

15 Section 1112-A. Matters of Inherent Managerial Policy.--  
16 Employers shall not be required to bargain over matters of  
17 inherent managerial policy. Those matters shall include, but  
18 shall not be limited to, such areas of discretion or policy as  
19 the functions and programs of the employer, standards of  
20 services, its overall budget, utilization of technology, the  
21 organizational structure and selection and direction of  
22 personnel. Employers, however, shall be required to meet and  
23 discuss on policy matters affecting wages, hours and terms and  
24 conditions of employment as well as the impact thereon upon  
25 request by employee representatives.

26 (c) Collective Bargaining Impasse.

27 Section 1121-A. Submission to Mediation.--(a) If, after a  
28 reasonable period of negotiation, a dispute or impasse exists  
29 between the representatives of the employer and the employee  
30 organization, the parties may voluntarily submit to mediation,

1 but, if no agreement is reached between the parties within  
2 forty-five (45) days after negotiations have commenced, but in  
3 no event later than one hundred twenty-six (126) days prior to  
4 June 30 or December 31, whichever is the end of the school  
5 entity's fiscal year, and mediation has not been utilized by the  
6 parties, both parties shall immediately in writing call on the  
7 service of the Pennsylvania Bureau of Mediation.

8 (b) The Pennsylvania Bureau of Mediation shall employ a  
9 complement of not less than twenty-five (25) mediators which  
10 shall be available to mediate according to the provisions of  
11 subsection (a).

12 Section 1122-A. Fact-finding Panels.--(a) (1) Once  
13 mediation has commenced, it shall continue for so long as the  
14 parties have not reached an agreement. If, however, an agreement  
15 has not been reached within forty-five (45) days after mediation  
16 has commenced or in no event later than eighty-one (81) days  
17 prior to June 30 or December 31, whichever is the end of the  
18 school entity's fiscal year, the Bureau of Mediation shall  
19 notify the board of the parties' failure to reach an agreement  
20 and of whether either party has requested the appointment of a  
21 fact-finding panel.

22 (2) No later than eighty-one (81) days prior to June 30 or  
23 December 31, whichever is the end of the school entity's fiscal  
24 year, either party may request the board to appoint a fact-  
25 finding panel. Upon receiving such request, the board shall  
26 appoint a fact-finding panel which may consist of either one (1)  
27 or three (3) members. The panel so designated or selected shall  
28 hold hearings and take oral or written testimony and shall have  
29 subpoena power. If, during this time, the parties have not  
30 reached an independent agreement, the panel shall make findings

of fact and recommendations. The panel shall not find or recommend that the parties accept or adopt an impasse procedure.

(3) The parties may mutually agree to fact-finding, and the board shall appoint a fact-finding panel as provided for in clause (2) at any time except that the parties may not mutually agree to fact-finding during mandated final best-offer arbitration.

(4) The board may implement fact-finding and appoint a panel as provided for in clause (2) at a time other than that mandated in this section, except that fact-finding may not be implemented between the period of notice to strike and the conclusion of a strike or during final best-offer arbitration. If the board chooses not to implement fact-finding prior to a strike, the board shall issue a report to the parties listing the reasons for not implementing fact-finding if either party requests one.

(b) The findings of fact and recommendations shall be sent by registered mail to the board and to both parties not more than forty (40) days after the Bureau of Mediation has notified the board as provided in subsection (a).

(c) Not more than ten (10) days after the findings and recommendations shall have been sent, the parties shall notify the board and each other whether or not they accept the recommendations of the fact-finding panel, and, if they do not, the panel shall publicize its findings of fact and recommendations.

(d) Not less than five (5) days nor more than ten (10) days after the publication of the findings of fact and recommendations, the parties shall again inform the board and each other whether or not they will accept the recommendations of the fact-finding panel.

1 (e) The board shall establish, after consulting  
2 representatives of employee organizations and of employers,  
3 panels of qualified persons broadly representative of the public  
4 to serve as members of fact-finding panels. The board shall,  
5 within sixty (60) days of the effective date of this act,  
6 increase the number of available panels of qualified persons to  
7 serve as members of fact-finding panels to meet the expanded  
8 role of fact-finding as provided for in this act.

9 (f) The Commonwealth shall pay one-half of the cost of the  
10 fact-finding panel; the remaining one-half of the cost shall be  
11 divided equally between the parties. The board shall establish  
12 rules and regulations under which panels shall operate,  
13 including, but not limited to, compensation for panel members.

14 Section 1123-A. Negotiated Final Best-Offer Arbitration.--

15 (a) The parties to a collective bargaining agreement involving  
16 public school employees shall be required to bargain upon the  
17 issue of acceptance and adoption of one of the following  
18 approved impasse procedures, with the proviso that such an  
19 obligation does not compel either party to agree to a proposal  
20 or require making a concession:

21 (1) Arbitration under which the award is confined to a  
22 choice among one of the following single packages:

23 (i) the last offer of the representative of the employer;  
24 (ii) the last offer of the representative of the employees;  
25 or

26 (iii) the fact-finder's recommendations, should there be a  
27 fact-finder's report.

28 (2) Arbitration under which the award is confined to a  
29 choice among one of the following on an issue-by-issue basis:

30 (i) the last offer of the representative of the employer;

(ii) the last offer of the representative of the employees;  
or  
(iii) the fact-finder's recommendations, should there be a  
fact-finder's report.

(3) Arbitration under which the award is confined to a  
choice among one of the following on the basis of economic and  
noneconomic issues as separate units:

(i) the last offer of the representative of the employer;  
(ii) the last offer of the representative of the employees;  
or  
(iii) the fact-finder's recommendations, should there be a  
fact-finder's report.

(b) As used in this section, "economic issues" shall mean  
wages, hours, salary, fringe benefits or any form of monetary  
compensation for services rendered.

Section 1124-A. Method of Selection of Arbitrators.--The  
board of arbitration shall be composed of three (3) members.  
Arbitrators as referred to in this article shall be selected in  
the following manner:

(1) Each party shall select one (1) member of the panel  
within five (5) days of the parties' submission to final best-  
offer arbitration. Each arbitrator shall be knowledgeable in the  
school-related fields of budget, finance, educational programs  
and taxation.

(2) The third arbitrator shall be selected from a list of  
seven (7) arbitrators furnished by the American Arbitration  
Association within five (5) days of the publication of the list.  
Each of the seven (7) arbitrators shall be a resident of this  
Commonwealth and knowledgeable in the areas necessary to  
effectively make a determination. Each party shall alternately



1 strike one name until one shall remain. The employer shall  
2 strike the first name. The person so remaining shall be the  
3 third member and chairman.

4 (3) Payment of arbitrators shall be as follows:

5 (i) For voluntary arbitration, each party shall pay the cost  
6 of the arbitrator selected by it under clause (1) of this  
7 section. The cost of the third arbitrator shall be divided  
8 equally between the parties.

9 (ii) For mandatory arbitration, the Commonwealth shall pay  
10 one-half of the cost of the arbitrators; the remaining one-half  
11 of the cost shall be divided equally between the parties.

12 Section 1125-A. Final Best-Offer Arbitration.--(a) At any  
13 time prior to mandated final best-offer arbitration, either the  
14 employer or the employe organization may request final best-  
15 offer arbitration unless fact-finding has been initiated as  
16 provided in section 1122-A. If fact-finding has been initiated,  
17 the parties shall complete fact-finding before requesting final  
18 best-offer arbitration. If either party requests final best-  
19 offer arbitration, the requesting party shall notify the Bureau  
20 of Mediation, the board and the opposing party in writing. The  
21 opposing party shall, within ten (10) days of the notification  
22 by the requesting party, notify the requesting party in writing  
23 of its agreement or refusal to submit to final best-offer  
24 arbitration. No strikes or lockouts shall occur during this ten  
25 (10) day period or until the requesting party is notified by the  
26 opposing party that they refuse to submit to final best-offer  
27 arbitration. Arbitration provided for in this subsection shall  
28 only occur if both parties agree to submit to final best-offer  
29 arbitration.

30 (b) If a strike by employes or a lockout by an employer will

prevent the school entity from providing the period of instruction required by section 1501 by the later of:

(1) June 15; or

(2) the last day of the school entity's scheduled school year;

the parties shall submit to mandated final best-offer arbitration consistent with the arbitration option negotiated. A return to work for the purpose of submitting to final best-offer arbitration shall not be considered a unilateral return to work.

(c) If the parties are unable to agree on the adoption of one of the approved impasse procedures under section 1123-A, the mediator appointed pursuant to section 1121-A shall select the procedure.

(d) Within ten (10) days of submission to final best-offer arbitration, the parties shall submit to the arbitrators their final best contract offer with certification that the offer was delivered to the opposing party, together with documentation supporting the reasonableness of their offer. This documentation shall include, but not be limited to, the following:

(1) The public interest.

(2) The interest and welfare of the employe organization.

(3) The financial capability of the school entity.

(4) The results of negotiations between the parties prior to submission of last best contract offers.

(5) Changes in the cost of living.

(6) The existing terms and conditions of employment of the employe organization members and those of similar groups.

(7) Such other documentation as the arbitration panel shall deem relevant.

(e) Arbitration shall be limited to unresolved issues.

1 Unresolved issues shall mean those issues not agreed to in  
2 writing prior to the start of arbitration.

3 (f) The parties may mutually agree to submit to final best-  
4 offer arbitration at any time except during fact-finding or  
5 during mandated final best-offer arbitration.

6 (g) Upon submission to the arbitrator of both parties' final  
7 best offers under subsection (a) or (b), the employer shall  
8 post, within the time limits described in subsection (d), the  
9 final best contract offers in the school entity's main office  
10 for the purpose of soliciting public comments thereon. Copies of  
11 both parties' final best offers shall be available from the  
12 school entity's main office. The cost of copies shall be  
13 established by the school entity and shall be paid by the  
14 requestor.

15 (h) The public comment period shall close within ten (10)  
16 days of the first day of posting. All public comments shall be  
17 directed to the arbitrators for consideration who shall provide  
18 them on request to the employer and to the employees'  
19 organization.

20 (i) Within ten (10) days of the selection of the third  
21 arbitrator of the arbitration panel, the arbitrators shall begin  
22 hearings at which they will hear arguments from representatives  
23 of the employer and of the employees in support of their  
24 respective last best contract offers under subsection (a) or  
25 (b). At least five (5) days prior to the hearing, a written  
26 notice of the date, time and place of such hearing shall be sent  
27 to the representatives of both the employer and employees which  
28 are parties to the dispute. This written notice shall also be  
29 sent to the fiscal authority having budgetary responsibility or  
30 charged with making appropriations for the employer, and a

representative designated by such body shall be heard at the hearing upon request of such body or of the employer as part of the presentation of the employer.

(j) Not later than twenty (20) days after the hearing pursuant to subsection (i), the arbitrators shall:

(1) examine each item of dispute;

(2) make a determination in writing consistent with the arbitration option agreed to by the parties; and

(3) forward a copy of the written determination to both parties involved in the dispute and to the board.

(k) The determination of the majority of the arbitrators reached as provided under either subsection (a) or (b) shall be final and binding upon the employer, employees and employee organization involved and constitutes a mandate to the school entity to take whatever action necessary to carry out the determination, provided that within ten (10) days of the receipt of the determination the employee organization or the employer does not consider and reject the determination at a properly convened special or regular meeting. This determination includes, but is not limited to, a determination which requires a legislative enactment by the employer prior to or as a condition for its implementation, including, without limitation, the levy and imposition of taxes.

(l) No appeal challenging the determination reached as provided under subsection (a) or (b) shall be allowed to any court unless the award resulted from fraud, corruption or wilful misconduct of the arbitrators. If a court determines that this has occurred, it shall declare the award null and void. An appeal of the award shall be made to the court of common pleas of the judicial district encompassing the respective school

1 district.

2 (m) If the employer or the employe organization rejects the  
3 determination of the majority of the arbitrators:

4 (1) The employe organization may initiate a legal strike or  
5 resume a legal strike initiated prior to submission to final  
6 best-offer arbitration.

7 (2) The employer may hire substitutes as provided under  
8 subsection (b) of section 1172-A.

9 (3) The employer may initiate a legal lockout or resume a  
10 legal lockout initiated prior to submission to final best-offer  
11 arbitration.

12 Section 1126-A. Time Frame.--The time periods set forth in  
13 this article are mandatory and shall not be construed to be  
14 directory.

15 Section 1127-A. Exception.--Any school district of the first  
16 class with an appointed school board and the public employes of  
17 that school district as defined in the act of July 23, 1970  
18 (P.L.563, No.195), known as the "Public Employe Relations Act,"  
19 shall comply with and be subject to the binding arbitration  
20 provisions of the "Public Employe Relations Act" and shall not  
21 be subject to the provisions of section 1123-A, 1124-A or 1125-  
22 A.

23 (d) Strikes and Lockouts.

24 Section 1131-A. Strikes Prohibited in Certain  
25 Circumstances.--(a) One year after a contract impasse, the  
26 Secretary of Education may request a public hearing in the  
27 school district of impasse. The public hearing process shall  
28 follow the following requirements:

29 (1) The hearing shall include testimony from the school  
30 board of the district, school district administration, the

1 employe organization and any additional party requested by the  
2 Secretary of Education.

3 (2) The public shall have thirty (30) days to submit written  
4 testimony. Testimony may be received from experts commenting on  
5 the social, emotional and educational well-being of the students  
6 in the school district.

7 (3) Within ninety (90) days following the public hearing,  
8 the Secretary of Education shall issue a report on  
9 recommendations regarding the impasse.

10 (b) A strike must cease where the parties request fact-  
11 finding for the duration of the fact-finding. A strike must end  
12 where the parties agree to arbitration. Strikes are prohibited:

13 (1) During the period of up to ten (10) days provided for  
14 under section 1125-A(a).

15 (2) During final best-offer arbitration, including the  
16 period of up to ten (10) days after receipt of the determination  
17 of the arbitrators during which the governing body of the school  
18 entity may consider the determination.

19 (3) When the arbitrators' determination becomes final and  
20 binding.

21 Section 1132-A. Lockouts Prohibited in Certain  
22 Circumstances.--A lockout must cease where the parties request  
23 fact-finding for the duration of the fact-finding. A lockout  
24 must end where the parties agree to arbitration. Lockouts are  
25 prohibited:

26 (1) During the period of up to ten (10) days provided for  
27 under section 1125-A(a).

28 (2) During final best-offer arbitration, including the  
29 period of up to ten (10) days after receipt of the determination  
30 of the arbitrators during which the employer may consider the

1 determination.

2 (3) When the arbitrators' determination becomes final and  
3 binding.

4 (e) Collective Bargaining Agreement.

5 Section 1151-A. Agreement and Enforcement.--Any  
6 determination of the arbitrators to be implemented under this  
7 article shall be memorialized as a written agreement by and  
8 between the school entity and the employe organization to be  
9 signed and sealed by their duly appointed officers and agents as  
10 provided by law. The executed agreement shall be enforceable by  
11 each party in the manner as provided by law, including without  
12 limitation and in derogation to the mandatory arbitration of  
13 disputes or grievances under the act of July 23, 1970 (P.L.563,  
14 No.195), known as the "Public Employe Relations Act." In the  
15 event that a school entity or an employe organization refuses to  
16 execute a written agreement under this section, the employe  
17 organization or the school entity may institute a cause of  
18 action in the court of common pleas to compel compliance with  
19 the provision of this section requiring a written agreement and,  
20 in the appropriate case, specific performance of the  
21 determination.

22 Section 1152-A. Existing Agreements; Provisions Inconsistent  
23 with Article.--Any provisions of any collective bargaining  
24 agreement in existence on the effective date of this article  
25 which are inconsistent with any provision of this article, but  
26 not otherwise illegal, shall continue valid until the expiration  
27 of such contract. The procedure for entering into any new  
28 collective bargaining agreement, however, shall be governed by  
29 this article, where applicable, upon the effective date of this  
30 article.

1 (f) Secretary of Education.

2 Section 1161-A. Injunctive Relief.--When an employe  
3 organization is on strike for an extended period that would not  
4 permit the school entity to provide the period of instruction  
5 required by section 1501 by June 30, the Secretary of Education  
6 may initiate, in the appropriate county court of common pleas,  
7 appropriate injunctive proceedings providing for the required  
8 period of instruction.

9 (g) Prohibitions.

10 Section 1171-A. Selective Strikes.--The work stoppage  
11 practice known as "selective strikes" shall be considered an  
12 illegal strike. Any strike which does not comply with the  
13 definition of "strike" contained in this article shall be  
14 considered a selective strike.

15 Section 1172-A. Utilization of Strike Breakers.--(a) Except  
16 as provided in subsection (b), during a legal strike, as defined  
17 by this article, the school entity, as defined by this article,  
18 shall not utilize persons other than those employees who have  
19 been actively employed by the school entity at any time during  
20 the previous twelve (12) months.

21 (b) A school entity may utilize persons other than those  
22 employees who have been actively employed by the school entity at  
23 any time during the previous twelve (12) months:

24 (1) when the employe organization or employer rejects the  
25 determination of the majority of the arbitrators; and

26 (2) when a legal strike will prevent the completion of the  
27 period of instruction required by section 1501 by the later of:

28 (i) June 15; or

29 (ii) the last day of the school district's scheduled school  
30 year.]



1 Section 2. The act is amended by adding an article to read:

2 ARTICLE XI-C

3 STRIKE-FREE EDUCATION

4 Section 1101-C. Short title.

5 This article shall be known and may be cited as the Strike-  
6 Free Education Act.

7 Section 1102-C. Public policy relating to strikes.

8 The Constitution of Pennsylvania mandates that the General  
9 Assembly provide for the maintenance and support of a thorough  
10 and efficient system of public education to serve the needs of  
11 this Commonwealth. Existing law requires 180 days of instruction  
12 each year as established by the school calendar and permits  
13 strikes to occur multiple times in the school year and multiple-  
14 year strikes. Days lost or rescheduled are made up as much as  
15 possible by canceling scheduled vacation days and holidays and  
16 extending the school year, resulting in severe disruption of the  
17 educational process and family life. Guarantees for the  
18 protection of public health, safety and welfare are not kept  
19 inviolate when days are lost or rescheduled. Therefore, it is  
20 the intent of the General Assembly that public school employee  
21 strikes shall be prohibited.

22 Section 1103-C. Definitions.

23 The following words and phrases when used in this article  
24 shall have the meanings given to them in this section unless the  
25 context clearly indicates otherwise:

26 "Board." The Pennsylvania Labor Relations Board.

27 "Bureau." The Bureau of Mediation within the Department of  
28 Labor and Industry of the Commonwealth.

29 "Economic issues." Wages, hours, salary, fringe benefits or  
30 any form of monetary compensation for services rendered.

1 "Employee." A public school employee who bargains  
2 collectively with a public school entity. The term does not  
3 include:

4 (1) An employee who is covered or presently subject to  
5 coverage under the act of June 1, 1937 (P.L.1168, No.294),  
6 known as the Pennsylvania Labor Relations Act, or the  
7 National Labor Relations Act (49 Stat. 449, 29 U.S.C. § 151  
8 et seq.).

9 (2) A management-level employee of any other school  
10 district.

11 "Employee organization." A public school employee  
12 organization of any kind, or an agency or employee  
13 representative committee or plan in which membership is limited  
14 to, or includes, public school employees, and which exists for  
15 the purpose, in whole or in part, of dealing with public school  
16 employers concerning grievances, public school employee-public  
17 school employer disputes, wages, rates of pay, hours of  
18 employment or conditions of work. The term does not include an  
19 organization that practices discrimination in membership because  
20 of race, color, creed, national origin or political affiliation.

21 "Employer." A public school entity. The term does not  
22 include an employer that is covered or presently subject to  
23 coverage under the Pennsylvania Labor Relations Act or the  
24 National Labor Relations Act.

25 "Good faith." Acting with openness, fairness, mutuality of  
26 conduct and cooperation with the intent of identifying a  
27 mutually agreeable solution.

28 "Lockout." The cessation of furnishing of work to employees  
29 or withholding work from employees for the purpose of inducing,  
30 influencing or coercing a change in the conditions or

compensation or the rights, privileges or obligations of employment.

"Mediator." A person employed or appointed by the Bureau of Mediation to mediate an impasse.

"Parties." An employer and the employee organization that represents the employee of the employer.

"Public transparency meeting." Special session at which the parties shall make their respective negotiating teams available to the public to take comments and answer questions. The session shall be separate from regular school board meetings.

"Representative." An individual acting for employers or employees. The term includes an employee organization.

"School entity." A public school district, intermediate unit or area vocational-technical school.

"Strike." Concerted effort in failing to report for duty, the willful absence from one's position, the stoppage of work, slowdown or the abstinence, in whole or in part, from the full, faithful and proper performance of the duties of employment for the purpose of inducing, influencing or coercing a change in the conditions or compensation or the rights, privileges or obligations of employment.

"Work stoppage." A strike or lockout.

Section 1104-C. Mutual obligation.

Collective bargaining is the performance of the mutual obligation of an employer, or its representative, and the representative of its employees to meet at reasonable times and confer in good faith with respect to wages, hours and other terms and conditions of employment or the negotiation of an agreement or any question arising under the agreement and the execution of a written contract incorporating any agreement

1 reached. The obligation does not compel either party to agree to  
2 a proposal or require the making of a concession.

3 Section 1105-C. Matters of inherent managerial policy.

4 (a) General rule.--An employer shall not be required to  
5 bargain over matters of inherent managerial policy. Those  
6 matters shall include, but shall not be limited to, such areas  
7 of discretion or policy as:

8 (1) The functions and programs of the employer.

9 (2) Standards of services.

10 (3) Overall budget of the employer.

11 (4) Utilization of technology.

12 (5) The organizational structure and selection and  
13 direction of personnel.

14 (b) Exception.--An employer shall meet and discuss policy  
15 matters affecting economic issues as well as their impact on  
16 employees upon request by an employee representative.

17 Section 1106-C. Obligation of employer to public.

18 The employer shall make publicly available a report, for copy  
19 and inspection, detailing the tentative agreement reached  
20 between the parties, at the employer's administrative offices  
21 and on the publicly accessible Internet website of the employer  
22 at least five business days prior to voting on a collective  
23 bargaining agreement.

24 Section 1107-C. Negotiation between parties.

25 The parties shall negotiate a collective bargaining agreement  
26 as follows:

27 (1) The parties shall commence bargaining a successor  
28 agreement no later than September 30 of the year preceding  
29 when the collective bargaining agreement shall by its terms  
30 expire.

1       (2) The employer shall confirm to the public through  
2 regularly scheduled board meetings that the negotiations  
3 commenced as required.

4       (3) The parties shall negotiate independently and shall,  
5 at all times, negotiate in good faith.

6       (4) Within 30 days of negotiations commencing, each  
7 party shall provide a written settlement proposal to the  
8 other party. Each party shall respond to the other party's  
9 proposal, in writing, within 30 days of receipt of the  
10 proposal.

11       (5) Both parties shall submit to mediation by the bureau  
12 by January 15 if no agreement is reached.

13 Section 1108-C. Mediation.

14       If the assistance of a mediator is required under section  
15 1107-C, the following procedure shall apply:

16       (1) The parties shall immediately call on the service of  
17 the bureau. The bureau shall appoint a mediator within two  
18 business days.

19       (2) The parties shall continue to negotiate in good  
20 faith throughout the mediation process. The proceedings with  
21 the mediator shall not be open to the public.

22       (3) The parties may agree to meet independently at any  
23 time during the mediation process.

24       (4) Mediation shall continue for so long as the parties  
25 have not reached an agreement.

26       (5) If no agreement is reached by February 15, the  
27 parties shall submit to fact-finding under section 1109-C.

28 Section 1109-C. Fact-finding.

29       Fact-finding shall proceed as follows:

30       (1) Within three business days, the board shall appoint

1 one or three fact-finders.

2 (2) Within five additional business days, each party  
3 shall submit its latest proposal to the fact-finders and  
4 simultaneously to the other party. Both parties' proposals  
5 shall be made public through posting at the employer's  
6 administrative offices and on the publicly accessible  
7 Internet website of the employer.

8 (3) The appointed fact-finders shall hold hearings,  
9 secure oral or written testimony and shall have subpoena  
10 power. The panel shall solicit public input, but the hearings  
11 shall not be open to the public. If, during this phase, the  
12 parties fail to reach an independent agreement, the panel  
13 shall make findings of fact and recommendations.

14 (4) The findings of fact and recommendations shall be  
15 sent by registered mail to the board and to both parties not  
16 more than 40 days after the board has notified the fact-  
17 finders of their appointment, and shall be made publicly  
18 available at the employer's administrative offices and on the  
19 publicly accessible Internet website of the employer, until  
20 such time as a new agreement is reached.

21 (5) The parties shall decide by April 15 whether to  
22 accept the recommendation of the fact-finders or to submit to  
23 nonbinding arbitration under section 1110-C.

24 (6) The costs of fact-finding shall be shared equally by  
25 the parties or in such proportion as the fact-finders  
26 determine.

27 Section 1110-C. Nonbinding arbitration.

28 If either party rejects the recommendation of the fact-  
29 finders, the parties shall proceed immediately to nonbinding  
30 arbitration. The parties may either submit their dispute to a

1 mutually agreeable single arbitrator or an arbitration panel  
2 composed of three persons. A three-person arbitration panel  
3 shall be selected in the following manner:

4       (1) Each party shall select one member of the panel  
5 within two business days. Each arbitrator must be  
6 knowledgeable in the school-related fields of budget,  
7 finance, educational programs and taxation.

8       (2) The third arbitrator shall be selected from a list  
9 of seven arbitrators furnished by the American Arbitration  
10 Association within three business days of the publication of  
11 the list. Each of the seven arbitrators must be a resident of  
12 this Commonwealth and knowledgeable in the areas necessary to  
13 effectively make a determination. Beginning with the  
14 employer, each party shall alternately strike one name until  
15 one shall remain. The person remaining shall be the third  
16 panel member and chairperson.

17       (3) The parties shall submit their last best offer to  
18 the panel within two business days of panel selection. The  
19 last best offer shall also be submitted to the other party  
20 and be posted publicly at the employer's administrative  
21 offices and on the publicly accessible Internet website of  
22 the employer, where it shall remain until such time as a new  
23 agreement is reached.

24       (4) All information, data, analyses and recommendations  
25 from the fact-finding process shall be provided to the panel.  
26 The employer shall provide guidance to the arbitrator  
27 regarding fiscal constraints in accordance with any allowable  
28 tax increases. The public shall be given an opportunity to  
29 submit comments to the arbitration panel.

30       (5) The panel shall issue a recommendation by May 15.

1 The recommendation shall be nonbinding on the parties.

2 (6) The recommendation shall be by selection of one  
3 proposal in its entirety.

4 (7) The panel shall consider the following criteria in  
5 making its recommendation:

6 (i) The interest and welfare of the public.

7 (ii) The financial ability of the employer to fund  
8 the costs associated with any proposed agreement.

9 (iii) Comparison of wages, hours and conditions of  
10 employment of the employees involved in the arbitration  
11 proceeding with the wages, hours and conditions of  
12 employment of other employees performing similar services  
13 or requiring similar skills under similar working  
14 conditions and with other employees generally in public  
15 and private employment in comparable communities.

16 (8) Within two business days of receiving the  
17 arbitration recommendation, the employer shall make the  
18 recommendation publicly available at the employer's  
19 administrative offices and on the publicly accessible  
20 Internet website of the employer, where it shall remain until  
21 such time as a new agreement is reached.

22 (9) (i) Each party shall pay the cost of the arbitrator  
23 selected by it under paragraph (1). The cost of the  
24 third-party arbitrator shall be divided equally among the  
25 parties or in such proportion as the chairperson  
26 determines.

27 (ii) The Commonwealth shall not be responsible for  
28 the cost of arbitration under this section.

29 Section 1111-C. Mandatory vote.

30 (a) Employer public meeting and vote.--The employer shall



1 hold a public meeting and not later than June 15 following the  
2 public posting of the nonbinding recommendation made under  
3 section 1110-C(5), to solicit public input on the recommendation  
4 and to vote for the approval or disapproval of the  
5 recommendation of the panel.

6 (b) Employee vote.--The employee organization shall provide  
7 the employees with an opportunity to vote for approval or  
8 disapproval of the recommendation of the panel prior to June 15.

9 Section 1112-C. Public transparency meeting.

10 If no agreement has been reached by June 16, the following  
11 shall occur:

12 (1) The parties shall arrange a public transparency  
13 meeting to take place before June 30 at a time convenient to  
14 the public if the meeting occurs on a business day.

15 (2) A suitably sized facility shall be chosen as the  
16 site of the public transparency meeting with accommodations  
17 made for media if necessary.

18 (3) Both parties shall be required to present their  
19 latest proposal and the reasons for the lack of an agreement,  
20 each being afforded equal time, and both parties shall be  
21 required to answer questions from the public.

22 Section 1113-C. Post school year negotiations.

23 If the parties have not reached a new agreement by June 30,  
24 the following shall apply:

25 (1) Until such time as a new agreement is reached, the  
26 parties shall conduct at least four separate negotiating  
27 sessions per month.

28 (2) Every four weeks the employer shall make publicly  
29 available, for copy and inspection, a substantive update on  
30 the continuing negotiations, which specifically includes the

1 current outstanding points of contention, at the employer's  
2 administrative offices and on the publicly accessible  
3 Internet website of the employer.

4 (3) The parties shall conduct good faith negotiations at  
5 all times.

6 (4) If no agreement is reached by the expiration of the  
7 contract, it shall continue month-to-month under the same  
8 terms and conditions.

9 (5) Any new agreement may not contain any retroactivity  
10 provisions.

11 Section 1114-C. Strikes and lockouts prohibited.

12 (a) Prohibited conduct.--

13 (1) No public employee or employee organization may  
14 incite a strike or participate in a strike or similar  
15 interruption of school operations.

16 (2) No employer may conduct a lockout or similar  
17 interruption of school operations.

18 (3) Any strike, lockout or interruption of school  
19 operations prohibited by this section shall constitute an  
20 actionable breach of duty to members of the public.

21 (b) Conduct during an unlawful work stoppage.--

22 (1) An employer may hire substitute teachers for the  
23 duration of an unlawful strike by its employees.

24 (2) The parties shall allow for safe and unhindered  
25 access to school facilities for all school employees not  
26 participating in an unlawful strike, including teachers and  
27 substitutes.

28 (3) The use of substitutes during an unlawful lockout is  
29 prohibited.

30 Section 1115-C. Determining violations and imposing penalties.

1     (a) Allegations by employer.--If an employer alleges, on the  
2 basis of any investigation and affidavits as he may deem  
3 appropriate, that there has been a strike by one or more  
4 employees in violation of section 1114-C(a)(1), the employer  
5 shall notify the board of the names of the employees allegedly  
6 engaged in a strike and the full or partial days of the alleged  
7 strike, within 60 days of the completion of the alleged strike.

8     (b) Allegations by employee or employee organization.--If an  
9 employee or employee organization alleges that there has been a  
10 lockout by an employer in violation of section 1114-C(a)(2), the  
11 employee or employee organization shall notify the board of the  
12 names of those individuals allegedly responsible for a lockout  
13 and the full or partial days of the alleged lockout within 60  
14 days of the completion of the alleged lockout.

15     (c) Hearing.--Within 60 days after receipt of a notice made  
16 pursuant to subsection (a) or (b), the three board members shall  
17 conduct a hearing to determine if there has been a violation.  
18 Those individuals alleged to have committed a violation shall be  
19 required to attend the hearing and shall be permitted to testify  
20 and have legal representation. Members of the public shall be  
21 permitted to testify at this hearing or submit evidence, at the  
22 discretion of the board.

23     (d) Violation by employee inciting a strike.--If, after a  
24 hearing under subsection (c), a majority of the board finds that  
25 an employee incited an unlawful strike in violation of section  
26 1114-C(a)(1), that employee shall be subject to a \$5,000 fine  
27 per incident, payable to the employer. This finding shall  
28 constitute a mandate to the employer to withhold the fine from  
29 the paychecks of the employee in amounts prorated over the  
30 remainder of the school year in such a way as to have collected

1 the full amount of the fine by the end of the school year.

2 (e) Violation by employee participating in a strike.--If,  
3 after a hearing under subsection (c), a majority of the board  
4 finds that an employee participated in an unlawful strike in  
5 violation of section 1114-C(a)(1), then each employee found to  
6 be in violation shall be fined a portion of the employee's  
7 salary equal to twice the employee's daily rate of pay for each  
8 day of strike, or part thereof. This finding shall constitute a  
9 mandate to the employer to withhold the fine from the paychecks  
10 of the employee in amounts prorated over the remainder of the  
11 school year in such a way as to have collected the full amount  
12 of the fine by the end of the school year. This penalty may not  
13 be waived by the employer or otherwise recovered by the  
14 employee. In addition, the employee may be subject to removal or  
15 other disciplinary action provided by law for misconduct.

16 (f) Violation by employee organization.--If, after a hearing  
17 under subsection (c), a majority of the board finds that an  
18 employee organization violated section 1114-C(a)(1), the  
19 employee organization shall be prohibited from using a union  
20 dues checkoff privilege for one year. This penalty may not be  
21 waived by the employer or otherwise recovered by the employee  
22 organization.

23 (g) Violations by employer.--If, after a hearing under  
24 subsection (c), a majority of the board finds that an employer  
25 instituted a lockout in violation of section 1114-C(a)(2), the  
26 employer shall pay a fine to the employee organization in an  
27 amount equal to the financial benefit derived from the lockout.  
28 Section 1116-C. Time frame.

29 The time periods set forth in this article are mandatory and  
30 shall not be construed to be directory.

1 Section 1117-C. Existing agreements.

2 This article shall not apply to any existing contract  
3 negotiations that fall within the timelines established under  
4 this article.

5 Section 1118-C. Enforcement.

6 The board, magisterial district courts and courts of common  
7 pleas shall enforce the provisions of this article.

8 Section 3. This act shall take effect in 60 days.